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OBSERVATIONS

UPON THE

Administration of Justice

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Occasioned by some late Proceedings at
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WHEN the Affairs of the *East India* Company were examined into by the House of Commons, in the Years 1772, and 1773, it was judged necessary to make a total Alteration in their Establishment, in order to correct the Abuses which then prevailed. These Abuses had extended so far, and taken such deep Root, that, in the Opinion of Men in Power, nothing less than a new System of Government, supported by a new System of Jurisprudence, could give Strength and Vigour to their Affairs in *Asia*. It was said, That as their Dominions had been greatly enlarged, and their Revenues increased in Proportion, by the late Conquests, these in their Turn required an Enlargement of the Principles and Forms of an Administration, which had been framed upon more confined Views of Policy, and in very different Circumstances. In order to effect this Change in the Second of these Objects, the Administration of Justice, (for with that of Government I have nothing to do in this Place), it was proposed to erect a Supreme Court of Judicature

in *Bengal*, with ample and independent Powers, and to invest it with a Jurisdiction over all the Concerns of the Company, and over all Persons employed in their Service. This was done by the Act of 13th Geo. III, chap. 63.

THE Views of those who patronised this Measure, and which were adopted by the Legislature, were directed to these Three principal Points: To preserve the Commerce and Revenues of the Company from Depredation, by subjecting its Servants to the Controul of the Court; to relieve the Subject from Oppression, by facilitating the Means of Redress; and finally, to establish a fixed, lasting, and regular Course of Justice for the permanent Security of Liberty and Property. For all which Purposes, the old Judicature of the Mayor's Court at *Calcutta* was alledged to be insufficient, either from its confined Jurisdiction, or its ideal Dependence upon the Council.

INSTEAD of framing a new Code of Laws for this new Institution, the *English* Laws are introduced in their full Extent, and with all their Consequences; without any Restriction or Modification whatever, to accommodate them to the Climate and Manners of *Asa*; without any Regard to religious Institutions or local Habits, or to the Influence of other Laws handed down from the remotest Antiquity, and fixed in the Hearts of the People: Without any Latitude allowed to the Magistrate to relax, compress, or change their Application, according to the Exigency of these Circumstances, upon a more attentive Observation of them: But all are transplanted entire into the opposite Quarter of the Globe, to be administered by Judges educated under them, and wholly unacquainted with the Religion, Character, or Manners of the People over whom they were to preside.

AT the Time when the Act passed by which this great Change was to be introduced, the Attention of both Houses was almost wholly taken up with those other Parts of it which new modelled the Order of Government in *Bengal*; and, unfortunately, this was treated only as a secondary Object. The Design, no Doubt, was great and laudable, the End proposed such as all Men approved, and these gained general Applause to the Measure. But

It happened in this as in many other Instances of political Innovation, founded only in popular Opinion, that the *End* alone was considered, the *Means* were overlooked. If we look back to the State of the Nation and of Parties at the Time I am speaking of, we shall find that the Debates in Parliament upon this Subject, as well as common Conversation, were full of the Misconduct of the Company's Servants, and of the Means by which many of them had acquired immense Wealth: These Things required immediate Correction, and nothing was thought so likely to contribute to it as an *English* Court of Justice. It was therefore to be erected with all Speed. But very few Persons thought seriously of the Consequences of *Introducing the Laws of England into Bengal*. I believe, none of those who took Part in the Debates upon this Bill, ever brought this Measure before the House even as a Subject of Observation. The Objections then made to this Part of the Bill were pointed at the Institution of the *Court*, and the Mode of its Appointment, not at the Laws it was to dispense, nor at the Extent of its Jurisdiction: And even these were not strongly insisted upon. The Court of Judicature makes a very inconsiderable Part of the Protest that was signed against the Bill in the House of Lords, which considers the Measure upon a different Principle, and objects only to the Power given to the Crown to nominate the Judges with large Salaries, payable out of the Revenues of the Company, without their Consent to the Nomination or the Payment. In truth, the great Field of Operation for the Change introduced by this Act, was *England*, not *Bengal*; and the chief Advantages of it were to be derived to the Crown, not to the Company or the Nation; and so far as it was directed to these Advantages, it was attentively considered and vigorously supported: the other Parts were left to shift for themselves; the Happiness of a People, and the Wisdom and Utility of a publick Institution, were Objects of no great Moment. It is impossible to account in any other Manner for the Inattention of the Legislature to a Matter of so great national Importance, and a Subject of melancholy Reflection to those who feel the Effects of it.

THERE were a few Men however, of more enlarged Minds, who saw the Weakness and Absurdity of this Measure, and foretold the evil Consequences

quences of it; but, as they spoke not to the Passions and Interests of Parties, their Voice was lost in the Conflict. Time and Experience have now given us the Means of judging how far they reasoned right, and how far the Event has justified their Predictions. If the Effects of this Institution are not answerable to the Causes that produced it; if it has not preserved the Revenues of the Company from Depredation, but, on the contrary, has involved them in greater Confusion; if, instead of relieving the Subject from Oppression, it has added new Means to that which prevailed before; and finally, if, so far from contributing to the Security of Liberty and Property, it has served to loosen the Ties of Society, and introduced an arbitrary uncertain Standard for its Government, it will be allowed that the System is radically defective, and founded in wrong Principles, and by Consequence, that it ought to be entirely new modelled, or altogether suppressed.

THE *British* Inhabitants of *Bengal*, and many of the native *Indians*, have at last sent over to this Country a formal Complaint and Remonstrance against this Institution, founded in Grievances which they have long suffered, and could no longer suppress. It is sufficient for the present Purpose to observe, that these Evils all flow from One Source, the Introduction of *English* Laws and Customs, which has diffused itself by innumerable Channels over the whole Country, and pervaded every Connection of Life, publick and private, domestick and social. The following Narrative of a late Transaction at *Dacca* is intended by way of Example, to convey to *Englishmen* an Idea of the Subject of Complaint, and rather to illustrate the Principle than to state the Merits of the Case, which will appear more at large hereafter, supported by a Multitude of Instances of the same Kind, of greater Weight, and more fully explained.

THE Judges were attended to *India* by a Number of Adventurers, who were allured by the Hopes of enriching themselves under the new Establishment. Some of them were of the lowest Sort of People, and of the lowest Description of these, whose Vices had rendered them unfit to thrive in this Country by the Means of an honest Industry, and who could find no Refuge
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from Distress but in a Flight to the other End of the Globe. Many of them were enrolled among the Domesticks of the Judges, or became their immediate Dependants; and upon their Arrival in *Bengal*, after having passed through the Purgatory of the Ocean, were permitted to assume the Forms of Attorneys, Court Officers, Under Sheriffs, and Bailiffs, or any other doubtful Shape, in which they were let loose upon the Inhabitants to search for Prey. Characters thus finished afford the most fruitful Soil to the Suggestions of Fraud and Oppression, which if they do not find, they are sure to raise; and if not made the Tools of Injustice, never fail to make Injustice theirs. Their History shews that no Oppression can be more severe than that which is systematical, and carried on under the Forms of Justice; and presents to our View a Scene similar to that which Scripture gives us of a Country labouring under the Plagues of Divine Vengeance. The Locusts of *Egypt* were not more destructive than the Vermin that spread themselves over the fertile Provinces of the *East*, upon the Arrival of this *English* System.

ONE of these Underling Retailers of second-hand Authority, who had progressively filled the Places of Servant and Clerk to Mr. Justice *Hyde*, was made Attorney, Proctor, Master Extraordinary in Chancery, and Under Sheriff; and in this four-fold Character, possessing the accumulated Power and Capacity of each, took up his Residence at *Dacca*, the Capital of one of the richest Provinces of *Bengal*. His Name, which now forms a Sentence of Execration there, is *Peat*. From the Time of his Arrival, the constant Attention of the Provincial Council has been employed, without Success, to stop the Progress of his Abuses, or correct their Effects. His Conduct has been the chief Subject of their Correspondence with their Superiors, the Supreme Council; and has afforded them more Employment than the Whole Service of the Company in the Government of the Province. They have been continually devising new Means to preserve the Peace of the Settlement, which he has as often eluded. In short, from a Review of their Proceedings, of which I have the Copies before me, it appears, that his Character spread an Alarm over the Country, as dreadful in very Deed as any Thing feigned by the Poets of the fabulous Monsters of *Greece*:
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And I doubt not, that in the Traditions of the ignorant *Hindoos*, delivered down to some long distant Generation, the Actions of this Man will be preserved in some allegorical Tale of Horror and Detestation. It would be endless to enter into a Detail of his various Transactions; and inapplicable to the present Subject; the Design of which is not to expose private Vices any further than they serve to expose the pernicious Principle from whence they spring.

I SHALL therefore select from the *Dacca Papers**, (the Originals of which are deposited in the *India House*), only a few particular Passages, which may illustrate the Observation I set out with, namely, the Incongruity of our Laws with the religious Institutions and local Habits of the People of *Bengal*. For this Purpose, I shall apply them in different Ways to these several Points; To shew, that the present Administration of Justice introduces a Leveling Principle among People accustomed to the most rigid Subordination of Rank and Character, and by breaking through the established Rules of Order, occasions a total Disrespect of the Magistrates and the Laws :

THAT it violates the Manners, and shocks the Feelings of the People, by confounding Distinctions which have been always held sacred and inviolable :

THAT it produces continual Vexation, by not having duly ascertained the Limits of the Court's Jurisdiction; and by the Jarring and Confusion of Two different Systems, the Subject is left in an Uncertainty more deplorable than actual Injustice.

THE Period I have chosen for the Passages I shall refer to, begins in the Month of *September*, in the Year 1777, which was soon after *Peat's* Arrival at *Dacca*; and I shall not extend it beyond the Course of Two or Three Months.

HIS First Operations were directed to encourage, by all the Artifices which low Cunning could suggest, a litigious Spirit among the People, for which their

* Printed in the *Appendix*.

Ignorance afforded him an ample Field. For this Purpose he opened Shop to receive the Applications of all those who had been sentenced to any Fine or corporal Punishment by the *Mahomedan* Courts of Justice, directing them to bring Actions for Damages in the Supreme Court against the Judges and Officers of the National Courts, and promising them, with all the Zeal of an Attorney, an easy Recovery of Satisfaction. It is natural to conceive that such Arts would have their full Force upon a Passion so easily inflamed as that of Revenge, which is of all the strongest, and whose Power too is always found to increase in Proportion to the rude State of the People, and the Warmth of the Climate. The poor *Indian* hears the Tale of *Satisfaction* with Rapture, and greedily catches at the Opportunity of gratifying his favourite Passion in the Way most cordial to his Wishes, by humbling his Superior. Innumerable Instances of this Sort might be cited with much Weight from *Pear's* Books of Accounts; but in this Place I shall only mention One, which in its Consequences spread a general Terror throughout the Province.

It is perhaps necessary to inform the *English* Reader, that when the Company secured the Fruits of their Conquests by the Treaty of 1765, they reserved to themselves only the exclusive Management and Controul of the Revenues, together with such Power as might be necessary to that Object, but wisely preserved the Order of Government, and general Administration of Justice, in their ancient Forms, still subject to the immediate Authority of the King *, or the Subah his Viceroy. By the Act of Regulation, no Notice whatever is taken of the Jurisdiction of the national Courts of Justice; because it was not supposed at the Time of passing that Act, that Things so separate and distinct in Theory as their Powers, and those of the *English* Court, could ever in Practice interfere with each other; nor did the Legislature foresee the implied constructive Extensions of the new Jurisdiction, by those Means which the Lust of Power has furnished to its new Judges. The principal of the *Mahomedan* Courts is that called the *Pbouddarry* or *Nizamut*, from its being the Court of the *Nazim*, the supreme

* The *Mogul* generally receives this Name.

Magistrate of the *Mogul* Empire; the Judge who presides in it is called *Phousdar*; the Officer next in Authority to him is the *Dewan* or Treasurer.

In the Summer of the Year 1777, a Complaint having been made in this Court at *Dacca* against one *Khyroo*, a Watchman, for a Misdemeanour, he was by the usual Process arrested; and being afterwards tried and convicted of the Offence, was punished by Order of the Judge with Fine and Imprisonment. As soon as he was at Liberty, he commenced an Action in the Supreme Court, at the Instigation of *Peat*, against the Treasurer of the Court at *Dacca* for the Imprisonment he had been sentenced to, and laid his Damages at a Sum equal to 1,200 *l. English*. Accordingly a Writ issued from *Calcutta* against this Officer, whose Name was *Jaggernaut*, upon which an Order had been procured to demand Bail to the Amount of that Sum. This Writ is sent to *Dacca* to be executed by *Peat*, in his Character of Under Sheriff; and, in order to add to the Insolence of the Action, some of his Men are sent to arrest *Jaggernaut* whilst sitting in Court. So extraordinary an Attempt occasioned great Disturbance; *Jaggernaut*, and the others present, denied the Authority of the Supreme Court over Officers of the Nizamut, and insisted upon their Privilege; but they still persisting, he demanded of the Sheriff's Officers to see a Copy of the Writ or Warrant, or to be informed of the Cause of Action and the Party's Name, but could get no other Answer than foul Language; he therefore refused Compliance, and the Officers proceeded to Force, which the others resisting, a Scuffle ensued, and *Jaggernaut* was dragged out of the Court. The Soldiers on Guard seeing this, immediately interfered to preserve the Peace, and One of them was wounded in the Scuffle; during which *Jaggernaut* made his Escape. The Sheriff's Officers, finding themselves foiled in their Attempt, were very clamorous; and soon after *Peat* himself came, attended by an armed Rabble, to support his Officers against what he called a Rescue. The Judge, dreading a Riot, had ordered the Gates of the Court-yard to be fastened; these were immediately assailed with a Volley of Bricks and Stones, and broken down, and *Peat* entered in the Pride of saucy Authority demanding his Prisoner; his Followers at the same Time treating with Insult and Violence the Officers of

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the Court, and the Attendants of the Judge, and even the Judge himself, and the Friends that were with him. The eldest of the Company, the Judge's Father, went forward to inform the Sheriff that *Jaggernaut* had gone away, and desired him to bid his People desist; when several of them fell upon him with their Cudgels, and beat him to the Ground. His Son-in-law *Meer Hussein*, who was standing by, instantly rushed amongst them to protect his Father; but he was soon disarmed by Numbers; and *Peat*, who was then in the Croud, discharged a Pistol at him, the Ball of which lodged in his Body, and then ran away. Several of the Judge's Friends were beat and wounded, but none were supposed to be mortally so, except *Meer Hussein*. *Peat's* Followers, as soon as their Master was gone, betook themselves to plundering, and ran off with every Thing they could carry. This Fray spread an Alarm throughout *Dacca*, and became the Subject of Enquiry in the Council, before which the Judge and the other injured Parties immediately laid their Complaints*. *Meer Hussein's* Wound being thought mortal by the Surgeons, *Peat* was secured, by Order of the Council, to answer for his Death, if that should happen; but, as he was soon after pronounced out of Danger, he was again set at Liberty.

JAGGERNAUT, however, still denied the Authority of the Court, and would not submit to be arrested; but afterwards, upon Deliberation had in the Council, it was resolved, in order to prevent further Mischief, to give Bail for him in the Action, reserving to him the Power of disputing the Jurisdiction afterwards. This he complied with very reluctantly, as it laid him under the Necessity of undertaking a tedious and expensive Journey to *Calcutta*, to appear in the Court there; and for this Purpose he left *Dacca* a few Days after.

Thus stands the Case: A superior Officer of Justice is harrassed with an Action, is forced to submit to Insult and Violence under the Forms of Laws unknown to him, from Persons who, by the Laws of his own Country, dare

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* The Stile of all these Complaints is the same; and it is worthy of Observation that they complain not of the riotous Violation of Order, and publick Outrage, but of the *Disgrace* and *Ignominy* that had befallen their own Persons and Characters in the late Affray. See the Proceedings of the Council in the *Appendix*.

not approach him without Reverence; is publickly dragged from his judicial Chair; is obliged to sign a Bond, in the Amount of his whole Property, to a Man he does not know; then to leave his Family and Profession to go a long Journey to a Place wherein he is destitute of Friends, and to appear before Judges whose Language he does not understand; and all for what?—for a common Act of Duty in his publick Office, which he was bound to perform! And the utmost Satisfaction he can hope for, after all this Trouble and Expence, is to be told, That the Plaintiff was mistaken in bringing his Action, that he is exempt from the Jurisdiction, and is now at Liberty to depart. Thus will the Relief appear to him as insulting as the Offence. In what Light can our boasted Laws and Government be regarded by such a Man? His Feelings might naturally suggest to him this Reflection: “These *English*, (he would say) lust after Tyranny; they cannot satiate themselves with it in War and the Plunder of Conquest, but they must deal it out to the conquered by System, and by Measures and Scales of Law.” The Oppression was likewise the more severely felt in this Case, as the Viceroy had, in his publick Instructions to the Ministers of Justice, informed them, that they were not amenable to the Jurisdiction of the Supreme Court, and required them not to pay Obedience to its Writs.

THE immediate Consequence of this Outrage upon the Nizamut was, a total Cessation of criminal Justice throughout the Province. Facts operate more forcibly upon the Minds of the Multitude than the plainest Dictates of Common Sense, urged with the clearest Reasoning, without them. This Truth is felt in all Countries, but most sensibly in those where Ignorance and Prejudice have the greatest Sway; for there the whole Nation, if I may say it, may be stiled the Multitude; and this Quality is to be ascribed to them in Proportion to the Rudeness or Improvement of the People. The Arrest of a publick Minister of Justice, and the Violence upon his Person, together with the Circumstance of shooting a Man within the Walls of the Nizamut, under the Eye of the Judge, were Facts which struck home to the Feelings of every Mussulman. Every Court Officer felt it to be his own Case, and dreaded the same Insult and the same Embarrassment from the Suits of every Delinquent who might be brought before him. *Seyd Ally Carun,*

Caron, the Judge at *Dacca*, refused to execute his Office whilst it was attended with such Difficulties, and would not open his Court, for which he stated his Reasons in a Remonstrance to the Council, which may be seen in the Appendix.

THE Council, in their Letter to the Governor and Council at *Calcutta*, represent, "That all criminal Justice is at a Stand, and seems not likely to be resumed until the decisive Consequences of the present Disputes shall be publicly declared and known. It touches to the very Existence of Government throughout the Province, that the Jurisdiction of the *Phoufdar*, (Judge), and his Superior the *Naib Subah*, be admitted free from all Ambiguity."

It appears, from the *Dacca* Consultations, that the Council were not mistaken; a few Days after the Arrest of *Jaggernaut*, Four Persons were murdered in a shocking Manner by some Slaves; but no Intreaties could prevail upon the Judge to take Cognizance of the Crime, or to give Orders for the Prosecution of the Murderers.

THERE is a Passage in the Judge's Remonstrance which I cannot forbear inserting in this Place, because the Expression, though simple, conveys a full Idea of the Effect of this Transaction. He says, "In deciding the Cause of Two adverse Parties, it being impossible for both to affirm the Truth, I must in Justice decide in Favour of the Party which appears to have most Right; but then when will the other be satisfied? He will cry out, that I have done Injustice; and in case he goes to complain in the Supreme Court, and brings up a Warrant against me, I must go and answer to it; and until the Truth or Falsehood of it shall be enquired into, the Person who is invested with the executive Powers of an Office, must remain a Culprit; and in becoming a Culprit, he must appear to the Vulgar in many Respects to have lost his Dignity, Credit, and Authority, and his Order never will be obeyed nor attended to."

THERE is One Circumstance to which this Tumult gave Occasion, which though not immediately connected with the Subject of this Narrative, yet

* See Appendix: Letter to the Supreme Council dated September 27.

† Ibid. Consultations of the 6th of October.

in a particular Manner deserves Attention, as it concerns the Conduct of an *English* Judge, and therefore I give it to the Reader entire and unconnected. From thence he may be enabled to judge of the Mode of administering Justice in *Calcutta*, and of the Characters supported by our Judges there; and may decide for himself how far the Partiality of the Judges of the former Establishment is prevented by the present.

WHEN *Peat's* Person was secured to answer for the Consequences of his Rashness, as is mentioned above, the Officer whose Detachment was stationed as a Guard over him, received the following Letter from Mr. Justice *Hyde*.

To Captain COWE.

"S I R,

"BY what I have heard, I presume you will receive Orders by the Post of To-night, to give Assistance to Mr. *Peat* in arresting again *Jaggernaut*, who has been rescued, and in so doing it is lawful to break open Doors, and he is not now to be bailed, but must be sent to *Calcutta*.

"MR. *Peat* informs me, you doubted whether the Command in His Majesty's Charter to give Assistance in the Execution of the Powers of the Court, applied to Cases of Civil Suits: it certainly does when such Assistance is necessary; but besides, the Nature of the Case is now altered, for the Rescue is a Crime in which *Jaggernaut* partakes. If the Man who is shot dies, I have no doubt you will give sufficient Protection to Mr. *Peat*, who, in that Case, must come to *Calcutta* for his Acquittal. If he does not die, and any Body should advise or order you to bring him (I mean Mr. *Peat*) hither against his Will, and without some Warrant from One of the Judges, I (only because I should be very sorry that any Gentleman, who meant only to do his Duty, should suffer any Inconvenience from it) caution you to beware; for the imprisoning an Officer of the Court is a Contempt, for which the Punishment is Imprisonment as well as Fine. If any Person desires you to imprison Mr. *Peat*, I should advise that you ask a Bond of Indemnity in a large Sum, because it is probable he would recover a very large Sum in an Action.

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" I BEG the Favour of you, for fear my Letters to him should not be suffered to come safe, to tell Mr. *Peat* that I highly approve his Conduct, and doubt not he will receive proper Support from the Court, whose Officer he is.

" I DOUBT not you will give him full Protection from the People of the Phousdarry, because, as a *British* Subject, I doubt not you will pay due Attention to your Allegiance to the King, as well as to your Duty to the Company.

" I am Your's, &c.

Fort William,
Tuesday, Sept. 23, 1777;

" JOHN HYDE."

THE several Parts of this Letter deserve to be minutely considered, as from each of them Reflections will arise material to the present Question. And first it appears, from the Date of the Letter, that there subsisted a very close Connection between Mr. Justice *Hyde* and his former Servant, and that the latter knew where to apply for Protection, when in the Hands of Justice. The Fray happened on the 20th of *September*; the Judge is informed of it at *Calcutta*, 200 Miles distant, on the 23d, and dispatches a Letter of Approbation to *Peat* on the same Day. His Lordship gives implicit Credit to the Account he receives from *Peat*, and from that pronounces at once the Guilt of the Parties; and gives Directions to a Military Officer to regulate his Conduct towards them, as if that Guilt were proved: Nay more, he prejudges a Cause upon which he might perhaps sit in Judgement, declares his Conviction of the Innocence of a Man who was supposed to have killed another, upon that Man's private Representation; and, as far as his own Sentence will decide upon the future Trial, predetermines his *Acquittal*. He then proceeds, in Terms not very indirect, to deter the Officer from doing his Duty in Support of publick Justice, by threatening him with *Imprisonment and Fine*; and he founds this Threat in a Declaration of the Law which he must know to be falsely made. Nor is this all; for if, by Means of his private Interposition, Injustice is not done by others, he is resolved.

resolved to pervert Justice himself, to obtain his Ends; and promises Encouragement to the Plaintiff, and unmerciful Damages against the Defendant, in an Action.

THE Conclusion is a shameful Mockery of Morality, and an Insult to Common Sense. It is really astonishing that the Judge, who could so far forget the Dignity of his Character, and the moral Duty of his Office, should yet endeavour to preserve a sanctimonious Appearance of both, by persuading others to pay a due Attention to their Allegiance to the King, and to their Duty to the Company. When Philip II. of Spain encouraged the Assassination of the Prince of Orange, by offering a Reward to the Murderer, he promised to pay it, "Upon the Honour of a King, and as a Servant of God."

UPON the Whole of this extraordinary Letter, I may venture to pronounce, with the Concurrence of all who read it, that however the Manners of Asia may excuse this indecent Partiality and Perversion of Authority, such an Act in this Country would have been deemed a fit Subject for parliamentary Impeachment. I think it not impertinent to the Occasion, to contrast with this Conduct of a Judge of Bengal, that of a Judge * of the King's Bench, who, when a Peer of the Realm desired to speak with him upon a Cause then depending before him, publickly declared, "That he could not hear him upon that Subject out of Court."

WHILST the Council were busily employed in providing against the Consequences of the late Tumult, they received a Complaint from the *Darôga* (or Judge) of the Adawlut, a respectable Magistrate, who had been summoned by *Peat* to appear at *Calcutta* to answer to an Action commenced against him for a Judgement he had pronounced against the Plaintiff. A Nobleman's Widow, the Daughter of *Suffraz Cawn*, late Subahdâr of Bengal, (and who could never have been connected with the Company's Service), was served with Notice of an Action upon the following Cause: She was possessed of a

* Lord Mansfield, in the Case of the late Lord Ferrers.

Fishmarket that had been erected by One of her Ancestors, a Prince of *Bengal*, from which the Fishermen had been seduced by a neighbouring Zemindar to One of his own erecting; but they returning soon after to their old Station, the Zemindar sent his People to force them back again: Upon this, the Princess applied to the Council to prevent the Violation of her Property, and by their Orders the Zemindar's Men were driven off; whereupon, some of them were advised by *Peat* to bring an Action against her, for Assault and Battery. Her Petition to the Council for Relief against this Action appears in their Consultations of the 18th of *September*.*

NUMBERLESS are the Complaints of the same Kind from the Zemindars of the Province; the Council Table was loaded with their Petitions. These are the Men who farm the Revenues of the Company, each having a District or Division of greater or less Extent, for which he pays an annual Rent. They are Persons of elevated Rank, and have always possessed a limited summary Jurisdiction within their Districts, without which it would be impossible either to maintain their Authority in the collecting of their Rents and Customs, or to make the due Returns into the publick Treasury. *Peat* soon discovered a profitable Field of Litigation in their Mode of Revenue Management. All those who had at any Time felt their Power, were taught that they had been injured, and that the Laws of *England* would give them Redress. Disputes which had subsided and been forgotten, were now revived, and every old Story of Complaint was made a Cause of Action. The Council, in a Letter to the Government at *Calcutta*, after stating several Cases of this Sort lately brought before them, observe, "That no sooner has a Person been cast in the established Courts of the Country, than he flies to Mr. *Peat* for Assistance, to enable him to elude giving Satisfaction to the Decree. How then is it to be expected, your Provincial Council can execute the Trust reposed in them, or that any Persons aggrieved will apply to them for Redress, when the immediate Consequence of their obtaining a favourable Decision upon their Claim, is a Lawyer's Note threatening them with a fresh Prosecution?"† And in another Letter upon the same Subject they say, "Thus, Gentlemen, is our Time engrossed, and every Department of Government invaded; nor can we hope for Relief while

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* See Appendix.

† *Ibid*, Consultations of 14th and 15th November.

Mr. *Peat* receives Seven Rupees upon every Note of this Kind he writes. The Natives will no longer continue to prosecute their just Claims in the Country Courts, if they are thus harrassed upon obtaining a Decree in their Favour; and such Interference must in the End be fatal to the Revenue."

—The Reflections which these Passages must naturally suggest in the Mind of every Man, will sufficiently demonstrate the Truth of the Position above stated, That the Confusion produced by Two opposite Systems is more deplorable than actual Injustice.

BUT this is not the great or the sole Grievance. In *India* the Distinctions of Rank and Station are minutely ascertained and strictly adhered to, and the respective Privileges and Duties of each form a Code which may be called a Second Law of Nature, being fixed in the very Constitution of the People. A Man of the Rank of Nobility would rather suffer Death, than feel any Diminution of those outward Forms of Respect which he has been taught to exact from his Inferiors, and which the same Custom teaches them to observe towards him. But in the Mode of carrying on Suits according to our Law, there is no such Distinction of Persons; Noble and Labourer are alike arrested and sent to Prison, or served with an imperative Summons upon a dirty Piece of Parchment. This it is that shocks the Feelings of an *Asiatick*; and accordingly all the Petitions of the Zemindars shew their Resentment at the Disgrace and Ignominy, much more pointedly than at the Injustice they have suffered. The Stile of One of these Petitions I have selected for the Singularity of the Expression; it appears in the Consultations of *November 25* *. A Zemindâr prays the Interposition of the Board to prevent a Warrant from being served upon him, because "he is apprehensive of thereby suffering a Disgrace hitherto unknown to him or his Forefathers." In a Letter to the Governor and Council upon the same Subject, the Council say, "We cannot help expressing our Wish, that the Disgrace which must attend the Seizure of *Mirza Ally's* Person by Warrant may by some Means be prevented; he and *Mirza Affud Ullab* hold the Two principal Zemindarries in *Dacca*; any severe Measures which operate in disgracing these Persons, will spread a general Dismay throughout the District, and cannot fail to be attended with Consequences

* See *Appendix*.

sequences seriously detrimental to the Revenue."—In another Letter they express their Fears of a "total Neglect of Rank and Authority."

THESE Instances of the Misapplication of our Laws are but a very few of the Number that could be cited; and their Effect inconsiderable, compared with that which must result from a Violation of those fixed Rules of Decency and Honour observed towards the female Sex in the *East*. These Habits are with them the Principle of social Life, and in this Principle consists the great Difference between *European* and *Asiatick* Manners. It ought therefore to be thoroughly understood, and considered in all its Consequences by those who would introduce the Laws of *Europe* into *Asia*. Women in these Countries are secluded from the general Eye, and have no Communication with the other Sex, but when connected by Marriage or other social Tie: They are inaccessible to all others, and their Apartments are held sacred.

THE following short Example will shew at once the Absurdity of this new System, and the Cruelty of its Effects. A House belonging to a Woman of Rank, and inhabited only by Women, was, in open Defiance of this sacred Usage of the *East*, entered by one of the Sheriff's Officers for the Purpose of serving the Process of the Court. Here was no illegal Act in the Officer, according to our Law, nor was his Behaviour any other than is usual upon such Occasions; but it appears, by a Letter of the Council, that no Crime could have been more shocking to the Mind of the Person thus insulted. Her own Indignation may be traced in an Expression of her Complaint* to the Council, in which she accuses the Man of "having opened the Door, and touched her Body with the Warrant." The Council wrote to *Calcutta* upon this Event†: "Though we do not find that any Steps were taken contrary to what the Law of *England* might authorize, yet this Invasion of the Precincts of a ‡ *Zenana* has spread universal Terror and Alarm throughout the City, and is so shocking to the Prejudices and established Customs of the Natives, that we conceive no Exertion of Power whatever could tend more effectually to alienate the Regards of the People from the *English*, than an Infringement of those Rights which have hitherto ever been held most sacred."

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* See Appendix.

† Ibid. Consultations of 11th November.

‡ The Women's Apartment;

I MAY add in this Place, that the Terror spread by *Peat's* Invasion of the Court of Justice, shewed itself most violent in the Fears of the Judge's Family for the Safety of the *Zenana*; and, upon the first Appearance of the Multitude, his Friends immediately armed themselves to defend the Passage to it. In the Letter which the Judge dispatched to Mr. *Rous** for Assistance during the Riot, he says, "As yet the Gate is fast: If (which God forbid) they should force the Gate, the Honour of our Women is injured; deprived of which Honour I value not Life.—You, Sir, are Chief;—Why do all these Oppressions come upon me? Let me have Justice." *Meer Husfain*, in his Deposition, says, "I resolved to go and guard that Passage, (*i. e.* to the *Zenana*), and, if they came there, to sacrifice my Life, or stop them."

I HAVE said, that the new Administration of Justice produces continual Vexation by not having duly ascertained the Limits of the Court's Jurisdiction. This Point requires but little Illustration, after what has been stated. It is necessary to observe, that by the Act in Question the Jurisdiction of the Supreme Court is authorized to extend "To all *British* Subjects who shall reside in the Kingdoms or Provinces of *Bengal, Babar, and Orissa*, or any of them, under the Protection of the said United Company. And the Supreme Court of Judicature shall have full Power and Authority to hear and determine all Complaints against any of His Majesty's Subjects, for any Crimes, Misdemeanors, or Oppressions, committed or to be committed; and also to entertain, hear, and determine, any Suits or Actions whatsoever against any of His Majesty's Subjects in *Bengal, Babar, and Orissa*; and any Suit, Action, or Complaint against any Person who shall, at the Time when such Debt or Cause of Action or Complaint shall have arisen, have been employed by, or shall then have been directly or indirectly in the Service of the said United Company, or of any of His Majesty's Subjects."

THESE are the Terms in which the Jurisdiction is limited; and, as if the Bounds were not extended enough, every Device is put in Practice to strain them, so as to take in almost every Inhabitant of the Province, and Sophistry is shamefully exerted to countenance the Usurpation. Hardly any Station can be found secure from the Effect of the Words ("directly or indirectly in

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* The Chief of *Dacca*.—See the Letter in the *Appendix*.

the Service of the Company.") In a late Case the Judges resolved that a Person who became Security for one of the Company's Renters, was within that Description. But the great Cause of Grievance lies in the Mode in which Business is conducted. The Court, upon the formal Application of a Plaintiff, issues its Writs against all Persons whatsoever. If, upon Receipt of the Writ, a Defendant denies the Jurisdiction, he must go to *Calcutta* (whatever be the Distance) to verify his Plea in Person: Thus is the Malice of the Plaintiff gratified, and the Vexation of the Suit complete, before it is known whether there ought to be any Suit at all; nay, even when it is determined that the Suit ought not to have been instituted. When the Defendant, after having incurred the Costs of his Defence, as well as some personal Disgrace in his own Estimation, is told, that he cannot be sued in the *English* Court, he feels that he is not only oppressed but derided. The Terror spread by these Proceedings has, in many Instances, operated so strongly upon the Parties, that they have paid unjust and exorbitant Demands upon the first Sight of a Writ, rather than contest them in the *English* Court*.

LET us consider this Case coolly; and that we may view it closer, let us make it our own. Suppose, at the Time of the Union of *England* and *Scotland*, effectual Provision had not been made for the distinct Exercise of the Laws of the two Countries, but that each had been left to support itself by its own Strength: If in this Case the King's Bench had issued its Writs to *Edinburgh*, and in every Instance a Defendant had been obliged to come to *Westminster* to plead to the Jurisdiction, would not the Hardship have pressed strongly upon our Feelings? Or suppose the Court of Session had sent its Letters of Horning into *Cornwall*, what a general Uproar would it not produce? Would not every Mine have poured forth its Legions to oppose the Invasion? And yet in every Point of View in which this Comparison can be placed, the Distress occasioned by the Jarring of two Systems in *India*, will be found to be far greater than any that could exist in this Country in the Case supposed. The Extent of the Country, and the Difference of Manners and Religion, help powerfully to increase its Magnitude. The State of Justice in *Bengal* at this Hour is far more deplorable, than it would be in *Britain*,

* Consultations of 14th and 25th November.

Britain, were Letters of Horning creating Disturbances in *Cornwall*, and Latitats in *Caitbnefs*.

ANOTHER terrible Oppression to their Minds is, the Necessity of putting in Bail in the Commencement of a Suit. They conceive this to be giving Judgement against them before they are heard, and cannot be persuaded to the contrary; and therefore often let the Suit go on without making any Defence to it, supposing every subsequent Step to be only the formal Mode of establishing the Judgement *.

THE Examples which have been drawn in this Place to explain the Propositions I set out with, may be thought too few for a Subject so important, and so extensive: They are so, if considered as the Evidence by which the Petitioners support their Complaints; or if they were intended to illustrate the Truth of those great Principles which ought to guide a Revolution in the Laws and Customs of a whole People. But, in Truth, that arduous Task is not attempted here; it will be undertaken in its proper Place, when the Evidence from *Bengal* will be stated at large. I shall have done enough for the present, if in these Instances I convey a proper Idea of the Subject of Complaint; to which I will venture to add a few Observations that arise out of them.

THE Evils that have resulted from the new System were not entirely unexpected: They were foretold long before the Scheme was carried into Practice. In Mr. *Verelst's* View of the Government of *Bengal*, published in 1772, this Subject is treated in a very masterly Manner. In the fifth Chapter of that Book, the Author, with much good Sense and Strength of Reasoning, examines the Difficulties which must obstruct the Execution of such a Plan; and upon the Whole concludes for "the *Impossibility of introducing the English Laws into Bengal*."—"Happily (says he) for the Inhabitants of *Bengal*, this absurd and extravagant System of transplanting *English* Laws, which have grown from the peculiar Necessities of a People, in the Course of several Centuries, to a Country where the Occasions of enacting them never had an Existence, is not more ridiculous in Speculation than impossible in Practice.

* Consultations of 14th November.

tice. Independent of the Difficulty arising from their Abhorrence of Oaths, and their Ignorance of the Language in which our Laws are conceived, how impossible would it be to promulgate them to many Millions of People; or how could the Magistrate obtain a Knowledge of Transgressors, when the Nation were unacquainted with Rules to which the Idea of Offence must relate?" Unhappily the Author was mistaken in the Event; he could not suppose that the *English* Nation would obviate the Difficulty of Promulgation, by putting them in Force without any Promulgation at all; or that an *English* Magistrate would make an Act criminal *ex post facto*, which was innocent at its Commission. The same Author adds a Fact from Experience, which ought to have had some Weight with our Legislature. "It is well known that the Experiment has already been tried with a Nation less dissimilar then the *Hindoos* to our own, without Success. The Power of Conquerors in *Canada* could give only a nominal Existence to our Laws. They were established indeed by the Magistrate, yet rejected by the People, and Property is now distributed according to their former Customs, unsupported by publick Authority."

WHEN the Governor of *Bengal* was first informed of the Design to establish an *English* Judicature at *Calcutta*, it appeared to him so extravagant, that he could hardly give Credit to it; the Event shews how well founded his Apprehensions were, which he stated to the Directors at the Time, in a Letter that I think well worth transcribing. It is dated in *March*, 1774, and accompanies a Specimen of the Code of *Gentoo* Laws, which was at that Time compiling from the Books of the Bramins; upon which Mr. *Hastings* observes,

"If it shall be found to contain nothing hurtful to the Authority of Government, or to the Interest of Society, and is consonant to the Ideas, Manners, and Inclinations of the People, for whose Use it is intended, I presume, that on these Grounds it will be preferable to any which even a superior Wisdom could substitute in its Room. It is from this Conviction, and from an Apprehension of the Effects which a contrary Opinion might produce, that I have been so earnest in transmitting these Sheets for your Information, as they will afford at least a

Proof, that the People of this Country do not require our Aid to furnish them with a Rule for their Conduct, or Standard for their Property.

“ I HAVE ventured to say thus much on a Subject which may possibly appear to have been irregularly obtruded upon your Notice, because Reports have a long Time prevailed, and been communicated to us by the best of private Authority, of an Intention to frame new Courts and Forms of Judicature for the Inhabitants of these Provinces. Whatever Foundation these Reports may have in Truth, or whatever may be the Extent or Principles of the Jurisdiction herein supposed, I cannot but express my Hope, that nothing of this Kind may be finally concluded, without an Opportunity being given to the Members of your Administration to communicate such Ideas as their Experience may suggest to them; and this I conceive to be my Duty, from the Consideration of the hurtful Effects which an unadvised System might possibly produce, to the Quiet of the People, and the Security of your Revenue.

“ I have the Honour to be, &c.

“ WARREN HASTINGS.”

THE Difficulties which oppose the Acceptance of our Laws in *India* arise principally from the Religion and Manners of the People; or I would say, that both these have been violated by the Introduction of our Laws. By *Manners* here I mean not only Habits of Life, but likewise in a more comprehensive Sense, national Character, Disposition, and Ways of thinking, upon all which the Climate operates through the Medium of the Manners. I omit to mention Laws in this Place, because I think them included in these Countries in the Article of Religion. All Laws derive their Origin from that Source, and make their First Appearance in religious Institutions. In the Infancy of a People, Law and Religion form but One System, and are not distinguished from each other. This appears from the History of every Nation, the first Beginnings of which have been handed down to us; nor is this Union dissolved till Civilization has made some Progress, and Arts and Sciences have wrought a Change in the Manners of the People.

People. There are likewise other Causes more powerful than these which help to preserve this Unity of System even in an advanced State of Arts and Government. Among the Natives of *India*, *Mahomedans* as well as *Gentoos*, Law is a religious Institution. Despotism, which has subsisted here from Time immemorial, has been the principal Cause of preserving it so; for as such Governments are supported by Fear, their Sovereigns have always encouraged a superstitious Reverence to their Authority, by connecting it with Religion; and have been studious to shut out every Alteration that might loosen this great Tie of Subjection. Despotism is likewise a bitter Enemy to Science, by the Progress of which Superstition is sure to be overthrown. I may add to this, the physical Cause assigned by *Montesquieu*, for the Immutability of the Eastern Institutions, which he draws from the Influence of the Climate upon the Organs of the Body. "A soft Sensory susceptible of the strongest Impressions of outward Objects, and an Indolence of Mind arising from that of the Body, whereby the former is incapable of any Exertion or Contest, all which render the Man unable to shake off Impressions he has once received: This is the Cause that their Laws and Customs, even the most trifling, are the same now as they were a Thousand Years ago." But whatever be the Cause, the Effect is certain. The *Koran* contains the only System of Law, as well as of Religion, which is dispensed to the *Mahomedans* in *Bengal*. The *Gentoos* also have their Prophet, whose sacred Books are the only Deposit of their Laws. The *Shaffbah* contains all the Rules of Right, by which they conduct the various Intercourses of Life. Laws being thus incorporated with Religion, an extraordinary Attachment to them is not unnatural. Where is the Legislator who would deliberately undertake to change a System so constituted? so fixed, not only in the Minds of Men, but in their Passions?

THE rigid Distinctions which separate the several Casts or Tribes of *Gentoos*, and the Means of preserving the Purity of each, are the characteristick Points of their Religion. They are forbid to intermarry, to cohabit, to eat with each other, or even to drink out of the same Vessel with One of another Tribe; and every Deviation in these Points, subjects them to be rejected by

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their Tribe, renders them for ever polluted, and they are thenceforward obliged to herd with the *Hallachores*. The several Casts have such an Abhorrence of each other, that there are many *Indians* who would think themselves dishonoured if their King were to eat with them. But our Law surmounts all these Barriers: If a *Gentoo* is accused of a Crime, he is sent, without Respect to his Cast, to the Common Prison; and by being thus compelled to live in a mixed Society, suffers a Punishment before Trial, far more grievous than any that could be inflicted on him for his Crime, if he should be found guilty. If his Friends are not at Hand, it is probable he will starve in this Confinement, * for there are many that would rather die than touch Food prepared by Persons who are not of their own Cast. Again; our Officers of Justice seize the Person of the accused; but to a *Gentoo*, the Touch of one of another Cast, is a shocking Impurity. The *Hallachores* are a Tribe formed out of "the Refuse of all the Tribes. These are a Set of unhappy Wretches, destined to Misery from their Birth. They perform all the vilest Offices of Life, bury the Dead, and carry away every Thing that is polluted. They are held in such Abomination, that, on the *Malabar* Side of *India*, if they chance to touch one of a superior Tribe, he draws his Sabre, and cuts him down on the Spot, without any Check either from his own Conscience, or the Laws of his Country †."—I have been informed that some Casts consider their Touch as a Pollution which nothing but the Waters of the *Ganges* can wash away. Now suppose a Sheriff's Officer (who is not apt to consider the Feelings of others) should make one of these his Follower, and in this Capacity (it is no unlikely Case) the latter should arrest a *Gentoo* of the Cast just mentioned, and carry him to Prison: The unhappy Man would be in a State as miserable as that of the severest Torture; and if the Prison did not happen to be near his favourite River, must infallibly starve, for his Religion would not suffer him to taste Food while he was in a State of Defilement. Yet the Law of *England* sees no Impropriety in this.

"THEIR *Mahomedan* Governors, says Mr. *Scrafton* ‡, often take Advantage of this Principle, when they want to extort Money from them; and though

* "They are ready to resign their Lives to preserve their religious Purity." *Scrafton*, p. 10.

† *Scrafton*, p. 7.

‡ Page 11.

though they will bear the severest corporal Punishment rather than discover their Money, yet when once their religious Purity is threatened, they comply." In what Manner can our Laws punish this Barbarity of the *Mahomedan*? Perhaps it might not fall within the Description even of a *common Assault*: Yet our Laws are said to relieve the Natives from Oppression, whilst they provide no Security for Rights dearer to them than Life. On the other Hand, what can appear more absurd or ignominious to a *Gentoo*, than a Judge reproving him for injurious Treatment of a *Hallachore*, and representing to him the natural Equality of Mankind, and the Rights and Privileges which the Law allows to every Citizen? Or what Scene could be more ridiculous than a Set of Lawyers consulting upon the Mode of procuring a Mandamus to restore a polluted Person to his Cast?

"LAWS (says *Montesquieu**) are established, but Manners are inspired; the latter are Part of the Genius of the Nation, the former are only a particular Institution: And it is much more dangerous to overturn the Genius of a Nation, than to change a particular Institution. Under despotick Governments Men have little Communication, and a very slight Connection with each other; hence their Manners and Customs suffer very little Alteration, and become more fixed than Laws. In these Countries therefore a Legislator should be particularly cautious not to shock the Manners and Customs of the People."

LET us consider how these Manners are formed: In *India*, Polygamy is universally allowed; it is a necessary Indulgence to the Influence of the Climate. Marriages† are made in the Infancy of the Parties, and consummated at Fourteen on the Male Side, and Ten or Eleven on the Female. It is common to see a Woman of Twelve with a Child in her Arms; and at Eighteen their Beauty is on the Decline. After which they have nothing to attract the Attention of the other Sex, for they are studiously kept in Ignorance, and taught to make it a Point of Honour. Thus their Prime of Life is passed before Reason can exert itself, and even then its Operations are checked or misapplied. Here is therefore no natural Equality between the

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* *Esq. des L. Liv. xix. chap. 12.*† *Scraston.*

Sexes ; and it is reasonable that a Man should look for it in a Plurality, since he cannot enjoy it in one. Our Laws, formed for a Climate that does not require Polygamy, and under a Religion that forbids it, have considered that there is with us a natural Equality between the Sexes, and allow but One Wife. The Relation of Parent and Child is here more closely drawn, and a Family requires no other Bond of Union than mutual Affection. But in *India* this is no Tie ; a Father cannot extend his Love to the Children of many Wives, nor can these be expected to have a Regard for each other. A Family divided in this Manner must therefore be united by some other Mode of Connection. The Confinement of the Women is an admirable Institution for this Purpose : By this Means their Passions are restrained from those Excesses into which their Situation would betray them, if they enjoyed that Liberty which the Manners of *Europe* permit ; and their Attention is directed solely to the Practice of the moral Virtues, and to an Attachment to their Family, in which their greatest Happiness consists. Accordingly (as *Montesquieu* observes *) “ we find the purest Manners in those Parts of *India* where the Confinement of Women is the most strict.” For, as he says in another Place, “ in some Countries the Influence of the Climate makes this necessary, as well as their Plurality.”—Throughout *India* this Practice prevails ; it is closely connected with the Manners and Religion of the People, and therefore cannot be changed. Both the *Hindoo* and *Mahomedan* dread the Exposure of their Women as the worst Dishonour. Mr. *Scrafton* gives us a striking Instance of it : He says, “ Nothing hurt *Suffraz Cawn* (Subahdâr of *Bengal*) so much, as a Disgrace he put on *Jagutseat*, one of his Ministers. Hearing that his Son, *Seat Martabruy*, was married to a young Lady of exquisite Beauty, he insisted on a Sight of her, notwithstanding all the Father’s Remonstrances ; but this, in a Country where Women are concealed, was an Injury not to be forgiven.”—“ Women (says Mr. *Dow*) are so sacred in *India*, that even the common Soldiery leave them unmolested in the Midst of Slaughter and Devastation. The *Haram* is a Sanctuary against all the Licentiousness of Victory ; and Ruffians, covered with the Blood of a Husband, shrink back with Confusion from the secret Apartments of his Wives.” Upon this Mr. *Verelst* makes these animated Reflections ; “ Shall our

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* *Esp. des L.* Liv. xvi. chap. 10.

Writs of Liberty unlock these sacred Recesses? Shall no Reverence be thought due to the Honour of a Husband? Or shall we disregard the Condition of a Wife, incapable of governing herself? Shall our Courts of Justice become the Authors of Outrage, which the bloody Russian would fear to commit? Thus, in Despite of Nature, shall we dissolve the Ties of domestick Life, without substituting any Government in their Place, and force the Servant, the Child, and the Wife, to renounce their Dependence, unable to afford them Protection?"

CAN our Laws protect this refined Delicacy, this nice Sense of domestick Honour? The Judge who has sworn to dispense the Law, is bound to grant a *Habeas Corpus* to deliver the Wife from her Confinement, if Malice or Stupidity should demand it. The Officer of Justice must break through the Restraints of the *Haram* in Execution of his Writ, and if Resistance is made by the distracted Husband, the Judge is bound to pronounce him criminal, though he must see and feel that he acted under the Impulse of a Passion as violent as the Love of Life, and from Motives as justifiable as Self-defence. What if the Wife should be informed, upon any domestick Quarrel, that she could demand Sureties of the Peace against her Husband?

BUT it is not only the Feelings of the Husband that are violated by this Law of Liberty. A Woman taken from the *Haram* would be as incapable of forming Connections, or even of providing for herself, as a Bird that is taken from the Nest to a Cage, and bred up in it, and let out after long Confinement, would be unable to procure Subsistence. Are all Birds to be therefore confined? it may be asked: Surely not; but do not dismiss those that are so, till you have taught them how to enjoy their Liberty. In the same Manner, prepare the Manners of the Women for Enlargement, and prepare the Manners of the People for these new Members of Society, before you make them such; otherwise the Confusion so great a Change would create, would overset the best founded Empire.

IF a Wife should ever be made Party to an Action, and should plead her Marriage, she may be told that her Husband had a former Wife living, and that her Marriage was void. If her Son should claim his Father's Land by Descent,

Descent, he may be told, he is a Bastard, and incapable of inheriting; or that Father might be indicted and hanged for Bigamy. Some Persons may start at this; but it is true, upon the Principles that led to the Condemnation of *Nundcomar*. We are all acquainted with this Name, and with the general History of his Trial; but the shocking Principles of that shocking Transaction have not been properly stated to this Country. This was an Act of *English* Justice. Stupid Cruelty is not the peculiar Quality of the *Spaniards*, nor confined to the History of *Peru* and *Mexico*.

MONTESQUIEU, after laying down, in his 26th Book, the Principles of Laws in the Relation they bear to the Order of Things, in the 22d Chapter proceeds thus: "These Principles were cruelly violated by the *Spaniards*. The Inca *Atbualpa* ought to have been tried by the Law of Nations, and by no other; but they tried him by the civil or municipal Law: They accused him of having sentenced some of his Subjects to be put to Death, of having had a Plurality of Wives, &c. and, in the Excess of Stupidity, condemned him, not by the municipal Law of his own Country, but by the municipal Law of *Spain*." I am afraid, for the Honour of my Country, to compare with this the Fate of *Nundcomar*, yet will it bear a Comparison; and that Honour calls for the Exposure of so foul a Deed. He was a Minister of State in *Bengal*, perhaps a wicked one; he was accused of a Forgery committed many Years before the Laws of *England* were imported into *India*. By these, Forgery is made a capital Crime; by the Law of *Bengal* it is not. He ought to have been tried by the Law of his own Country, and by no other; but he was tried by the Law of *England*, and, to our lasting Shame, was condemned by *English* Judges*. What should prevent the same Judges from condemning Men for Bigamy? It is as solemnly forbid by our Law, and is equally capital. Why should they not punish every *Indian* for the false Imprisonment of his Wife? In *England*, Women are as well intitled to their Liberty as Men. Why not condemn to Death every Man who consummates his Marriage with a Wife under Twelve Years of Age? In *England*, Knowledge of Women, even with their Consent, under that Age, is a capital Crime†. Common Sense revolts

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* Yet the same Judges have doubted whether the Statute for limiting the Times within which Actions may be brought, can have Force in *Bengal*; and have resolved, that if it has, it can only take Place from the Period of the Establishment of the Court.

† *Hale's Pleas of the Crown*, 632.

at these Questions, and I shall proceed no further with them. I think it sufficient to observe, that most of our Laws respecting Women, when applied to *Indian* Manners, lead to Conclusions equally absurd, and often barbarous. They all flow from this capital Defect; we confound the Order of Things; we apply a Law of civil Conduct to Things which are governed by a Law of domestick Conduct. Laws are always limited in their Application to the Order of Things, and should not be extended beyond them. In the following Instance we apply a Law of Contract to Things governed by the Law of Nature: Fourteen is the Age at which a young Man of *Bengal* is foris-familiated, and left to his own Management; but according to our Law, though Master of a Family, and Father of many Children, he is now incapable of contracting for any Thing but Necessaries, till Twenty-one.

BOTH *Mabomedan* and *Gentoo* pay a superstitious Reverence to the Distinctions of Rank, and their Laws encourage it; but our Laws know of only Two Divisions of Persons, Peers and Commoners, and a few other local Distinctions, and cannot take Notice of the *Asiatick* Orders: Accordingly all are levelled by them. In *India*, a Master of a Family exercises, in his limited Sphere, the Functions of a Sovereign, and his Household is a Miniature Representation of the State; it is the same in every Department of Government; and this is always the Case where Despotism prevails, being a natural Consequence of that Institution: But our Laws will not permit a Master of a Family to exercise his Authority in the moderate Correction of his Slave*. Our Judges will tell the Slave his Person is as much protected as his Master's, and that he may obtain Damages for the Assault in an Action. Here is a Source of Confusion opened upon *Asiatick* Manners! The Records of the Supreme Court warrant me in saying, the Principle has been carried into general Practice.

I THINK enough has been said upon the first and general Principles which oppose the Establishment of this new System; but there are many other Considerations of a less extensive Nature that present themselves upon this Occasion,

* See, in the *Appendix*, the *Patna* Petition to the King, near the Middle.

Occasion. Laws should have a certain Appearance of Candour and Impartiality. The new System of Jurisprudence is made to extend only to a Part of the Nation; and the Misfortune is, that the Subjection to it is formed by accidental Circumstances which continually vary, and not by any fixed Rule. The Effects of this are manifest. If the new System is beneficial, it raises Envy in those who are excluded from it; if it is burthenfome, it raises Envy in those who are subject to it. Objects of Sense operate most powerfully on vulgar Capacities. The comparative Advantages of a Neighbour's Situation are thus brought home to the daily Observation of every Man; his Passions are excited, and break out in Murmurs and Complaints. I will take only one Example out of the Multitudes that occur, Forgery, as I have just mentioned, is punished with Death by our Law; the State of *Bengal* does not require this Severity, and there it receives an inferior Punishment. Without entering into the comparative Justice of the two Laws, I will suppose they are both just; but see the Consequence:—A Man, because he happens to be connected with the Company's Service, is condemned to Death and hanged, for a Crime, for which his Neighbour is dismissed with Whipping. It cannot be denied that the great Ends of Justice are by this Means as strangely perverted, as if a Tyrant's Whim were the only Law: And this Mode of Punishment will be found to fall within the true Definition of Tyranny; by which Word we mean, when we speak with Propriety, "an arbitrary and uncertain Rule of Right." But here Tyranny is superadded to Tyranny; the Subject already labours under the native Despotism of his Climate; we add the Tyranny of Law to the Tyranny of Power, and practise a Paradox which Theory cannot comprehend, by fixing the Rules of Justice, we inflict the Quintessence of Tyranny.

A LAW may be just and equitable though it inflicts a heavy Punishment upon one Set of Men, and a slight one upon another, for the same Crime. Thus a Law by which a Nobleman forfeits his Land, and a Labourer suffers corporal Punishment for the same Offence, may be very reasonable; it relates to the Rights of Persons, and is fixed and certain, because the Order of Things upon which it operates is fixed and certain: But if in

this Case Nobility were a Matter of Accident, I should hold such a Law to be deceitful and tyrannical.

THERE ought likewise to be established a certain regular Proportion in Punishments; this can never be when the Laws of One Society are transferred to another which is formed upon different Principles; because all Punishments are, or ought to be, proportioned to the Injury done to Society by the Crime. Now the essential Principles of one Society may be directly violated by an Act which another Society might not feel. A familiar Instance shall explain this. All Animals have their peculiar Properties, or such upon which their Being immediately depends; Societies have the same: thus to a Bird the Tail is necessary to direct its Flight; to a Beast it is generally an Ornament; the one therefore is more injured by the Loss of an essential Property, than the other by the Loss of an Ornament. Political Liberty is the first Principle of the *English* Constitution; general Tranquillity is that of the *Chinese*; from this Difference, it may happen that an inoffensive Act in *England*, may be highly criminal in *China*.

THE Principles of Society ought therefore to direct the Order of Punishments; their Nature ought likewise to be derived from them; a heavy Punishment in *China*, might not be felt in *England*. Forfeiture of Cast, or Excommunication, is the highest Punishment of the *Gentoos*. In *Sparta*, a Prohibition to lend one's Wife to another, was a very great one.

As to the Constitution of the Supreme Court, there is one Part of it, which in a political View deserves the particular Attention of the Nation. I mean the Authority of the Judges. All judicial Power ought to be subordinate and dependent; and this Subordination ought to be impressed upon the Minds of those who exercise it, by daily Experience. The Haughtiness of Kings results from their Independance; this Quality is naturally produced by such a State; but it is never so insufferable and so dangerous as in a judicial Character. I believe the Persons who received this Appointment arrived in *India*, and began the Exercise of their Functions, with the best Intentions; but when they felt themselves in Possession of an uncon-

would Power, their Sentiments changed with their Situation. They are not the Men who left their native Country to dispense the Laws of Freedom to its distant Provinces; they were Judges then, they are Dictators now. The Letter I have so freely censured, shews how far they have deviated from the chaste Rules of Conduct which Judges here observe, and in what Manner, and with what Effect, they employ their Authority out of Court: the Accounts of their Haughtiness in Court, are equally extraordinary. This is the Nature of Man; we must not wonder that they have been corrupted by Power, since the best of Men have been so; we ought rather to censure the Institution by which they are exposed to so great Temptation. Three Men are invested with the accumulated Power of all the Courts of Justice in this Country; they exercise at once the whole Authority of the Laws, which all wise Governments have endeavoured to divide into various Branches, and to modify into various Forms, in order to correct its Excess, and to make it less perceptible to the People. They possess a Civil, Criminal, Prerogative, Fiscal, Equitable, Ecclesiastical, and Admiralty Jurisdiction. Add to this, their Distance from the Seat of Government, by the Degrees of which all political Restraint is found to diminish, and according to which all wise Institutions ought to encrease it. I know very well it may be said, that they are controuled in all these by the Appeal to the King in Council; but Experience shews that this Check is only nominal: They have practised the Rule, *Boni judicis est ampliare jurisdictionem*, without adverting to the Spirit of it, which is *ampliare justitiam*, and have made Regulations which will effectually prevent the Practice of Appeals, by rendering them so burthensome to the Parties as to be entirely fruitless.

MACHIAVEL, in discoursing upon the Institution of the *Decemvirs* in the Roman Republick, after observing that their Conduct at first was laudable, remarks, "that as soon as they began to feel themselves alone, un-
awed by Consuls, or Tribunes, or by the Appeal to the People, and without any superior Power to controul them, they partook of the Arrogance of their Leader *Appius*, and became ambitious." He shews in the same Place* how naturally their Situation betrayed them into the Excesses they committed,

* Lib. i. c. 35, 49, 42.

committed, and that their Tyranny was a necessary Consequence of the Power with which they were invested. He concludes the Subject with a Reflection upon the Character of *Quintus Fabius*, who was one of the best Men in the Commonwealth, but lost his Honour and Virtue in the short Period of the Decemvirate, and became as arbitrary as *Appius*. Since such Men could so easily corrupt themselves, he advises all Legislators to take Care to restrain the Passions of Mankind, and to remove from them every Opportunity of acting without Controul.—The Judges of the Supreme Court are placed in such a Situation, and I will be bold to say, that if their Power should advance, in the Progression in which it has increased to its present Bulk, in the Course of Five Years more they will form a Triumvirate, which no Force in *India* will be able to withstand.

I COME now to the last Point of View in which I shall place this Subject. If Humanity and Justice should not induce the Legislature to alter this new System, Policy may have that Effect. Humanity and Justice are Motives to Men; Policy is a Motive to Nations. Considering *Bengal* as a Country gained by Conquest to *Great Britain*, (whether to the Nation or the Company, it matters not in this Place), the Mode of preserving and improving this Conquest, is a Matter of the greatest Importance, and requires the serious Attention of the Legislature. *Montesquieu* says*, “the Conquests of a Monarchy ought to be left in their ancient State of internal Government, the same Judicatures, the same Laws, the same Customs, the same Privileges; there ought to be no Change but in the Forces of the State, and the Name of the Sovereign.” He adds afterwards, “It is not enough to leave to the conquered their Laws; it is more necessary to leave them their Manners; because People are more strongly attached to their Manners than their Laws, they understand them better, and defend them more obstinately. By neglecting this, the *French* have been Nine Times driven out of *Italy*.” This Method becomes still more necessary in despotick Governments, for in these, as *Machiavel* observes, “there are properly speaking no Laws; nothing is fixed but the Manners of the People, and a few antient Customs.” The Principle upon which the *Romans* made their

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distant

* *Esp. des L. Liv. x. c. 9.*

distant Conquests, (in *Italy* they were actuated by another Spirit), was to destroy. *Montesquieu* reprobates this exterminating Principle, and pronounces a fine Panegyrick upon *Alexander*, who made the Opposite his Rule of Conduct, and exerted the whole Bent of his Genius and Power to preserve, and to become the Father of the People he had conquered. "He not only left them their Manners, but also their municipal Laws, and sometimes even their native Kings and Viceroy: He respected their antient Traditions, and indulged their Prejudices.*" History shews the different Effects of this Difference of Conduct; the Institutions of the *Romans* in their Provinces declined with their Government, whilst those of *Alexander* remained through several successive Revolutions, and served to uphold the Descendants of his Successors in their Kingdoms, long after the Fall of *Macedon*.

THE Author just mentioned distinguishes Tyranny into two Kinds, † "the one, which he calls real, consists in a violent and arbitrary Exercise of Power; the other is ideal, existing only in Opinion, and is felt when the Powers of Government are exerted in such Manner as to shock the Sentiments and Ways of thinking of the People. Either of these is Tyranny." If this is just, (and I believe there is not a wiser Reflection to be found in the largest Library), it may be felt under every Form of Government, and by every People. And the History of Nations shews that wherever it has been felt, it has been opposed, and generally with Success; the most enervated, the most corrupted, the most enslaved People have resisted Tyranny; not that such Men have been roused by real Tyranny, but by that which their Ideas have termed so; or rather they have been roused by a Violation of that which to their Ideas is Liberty. Every Nation has its own peculiar Notions of Liberty. Some have appropriated

* The *Mahomedans* have an annual Festival in Commemoration of Two of their Saints, which they celebrate by carrying their Shrines in a grand Procession. In the Year 1778, this Ceremony was performed at *Calcutta* whilst the Court was sitting; the Judges were offended at the Noise, and gave Orders to stop the Procession. The Accounts from thence say, that nothing ever disgusted these People so much as this Insult to their Religion: the immediate Consequence of it was a dangerous Tumult, in which the Court-house was threatened with Destruction; the remote Consequence may perhaps appear in a more formidable Shape at a future Period, for Superstition never forgives.

† *Esp. des L. Liv. xix. c. 3.*

it to a Form of Government, others to a Form of Dress; some have even placed it in the Right to choose a Tyrant, and others in the Right to depose one; it is derived from Laws in one Country, in another from Religion. Many *Russians* preferred Death to the Loss of their Beards; and very lately, in our own Country, we have seen the whole Authority of the Legislature unable to deprive the *Highlanders* of *Scotland* of their Dress.—We read of one Nation (the *Cappadocians*) who refused a free Form of Government when the *Romans* offered it to them. *Cicero* tells us, that when the *Romans* permitted the *Greeks* to use their own Laws, they considered themselves a free People. The *Gentoos* have preserved their Manners and Religion without the slightest Change, under a Succession of Conquests from the Time of *Alexander*. An Innovation in either of these is to their Minds Tyranny. Our Administration of Justice is odious to them, because it tends to this Innovation. Why, in Despite of Experience, must we force it upon them? We know that our Laws are full of Wisdom, Justice, and Moderation; they cannot discover this, and like their own better. It is worth while to read the Petition to the King from the Inhabitants of *Patna*, which conveys the Sentiments of the Natives upon this Subject in strong Terms: They complain, “ That when the Ordinances of this Court of Judicature were issued, as they were all contrary to the Customs, Modes, Usages, and Institutions of this Country, they occasioned Terror in us; and Day by Day, as the Powers of this Court have become more established, our Ruin, Uneasiness, Dishonour, and Discredit, have accumulated, till at last we are reduced to such a Situation, that we even consider Death to us as infinitely preferable to the Dread we entertain of the Court: For from this Court no Credit or Character is left to us, and we are now driven to the last Extremity.” The Conclusion is very animated. “ If (which God forbid) it should so happen that this our Petition should not be accepted, and should be rejected at the Chamber of Audience, those amongst us who have Power and Ability, discarding all Affection for our Families, will fly to any Quarter we can; whilst the Remainder, who have no Means or Ability, giving themselves up with pious Resignation to their Fate, will sit down in Expectation of their Death. After this, let the Soil of this Country remain, and the Court of Justice! Let the Court of Justice remain upon the Earth, or the Earth cover it!”

"THE Romans, like ourselves, thought no Administration of Justice could be equal to their own; they accordingly carried it with them into their Provinces. In *Germany*, whose Inhabitants were as different in every Respect from them as the *Indians* are from us, they established a high Court of Justice, which was attended by a Tribe of Advocates, Attornies, and Officers. The simple People thought this a most insufferable Grievance*. I dare say, if any of their Complaints against it had been handed down to us, we should find them not unlike the late Petitions from *India*. The *vocatio in jus* was, no Doubt, as terrible to them as the Warrants † and Attorney's Letters to the *Indians*. Tacitus says, this Court occasioned the Revolt of the *German* Nations. The Judges and Lawyers were the first who felt the Weight of their Anger; they cut out the Tongues of the latter, with this indignant Reproach to them, "Viper, hiss no more."

THE Nations of *Asia*, which *Mithridates* called forth against the *Romans*, were equally averse to their Courts of Judicature. That great Man saw the general Abhorrence in which they were held, and knew that it was the strongest Motive to excite them to Arms. He accordingly made their *Pleadings*, and *Judicial Forms*, a great Subject of Invektive against them. The People were as enslaved at that Time as they are now, yet they would not bear so great an Innovation as the *Roman* Lawyers introduced. I do not say that this was the only Cause of the *Mithridatick* War, (the Rapine of the *Proconsuls* was another,) but it was a principal one.

It may be said, that any Apprehension of a similar Revolution in *Bengal*, arises from Ignorance of the Character of the *Gentoos*, (who form Eight Tenths of the Natives), which is all Tameness and Submission. I admit that they

* The Expedition and Irregularity with which Justice is generally administered in despotic Governments, render the professional Employments of Advocate and Attorney unnecessary; among the Natives of *India* no such Characters exist; every Man pleads his Cause himself, or by his Friend; or, if in a higher Sphere of Life, deposes his Steward or Agent to manage it for him. To them it seems a most preposterous Hardship to be forced to commit their Cause to a Person unknown, and to intrust it with Men who gain a Living by the indiscriminate Support of every Party and every Claim; they conceive them to be Barriers oppressively raised between Justice and the People. The Dread of this Formality of our Law is therefore natural; they complain of it bitterly. This is the Effect of the Simplicity of their Laws. From the same Cause, barbarous Nations have thought after the same Manner; this was conspicuous in the Detestation shewn by the *Germans* against the *Roman* Lawyers.

† See the Petition from *Dacca* in the *Appendix*.

they are the most passive of Mankind, not only so by Nature, but by Religion; and this Plea might serve a Tyrant's Turn. But it is not so with the *Mahomedans*; they are aspiring, crafty, and revengeful. All the Power held by the Natives is in their Hands, and there is no Doubt but they would gladly embrace an Opportunity of throwing off the Yoke. In such a Case, the same Cause that prevents the *Gentoos* from resisting, would likewise prevent them from supporting us, even if they were inclined, of which there is not the least Probability. According to *Raynal*, the State of *India* would not be unfavourable to such a Revolution: "The Subah of *Bengal* secretly murmurs at his not having so much as a seeming Authority. The Subah of the *Deccan* is inconsolable to see his Commerce under the Controul of a foreign Power. The Nabob of *Artot* endeavours to dispel the Jealousies of his Tyrants. The *Marattas* are exasperated to find nothing but Obstacles to their Depredations. All the Powers in those Parts are either actually enslaved, or think themselves at the Eve of being so. *England*, we may presume, would not wish to see the *French* at the Head of such a Confederacy." Fortunately for us, the Power of the latter on the Continent is now annihilated: But if Ambition, or the Thirst of Plunder, should raise up some *Indian Mithridates*, we may be assured that the general Aversion to the new Judicature, and the Terror it has diffused, even without the Help of political Circumstances, would more than supply him with the Means of overturning our unsettled Dominion. That Time may not be far distant: The Minds of Men are ripe for an Insurrection. *Hyder Ali* is not unlike that ancient Enemy of the *Romans*: Our provincial Administration in the *East* has all the Defects of theirs. May our Legislature resolve in Time to correct and strengthen it.

I CANNOT better conclude these Observations, than by adding the following Passage from the Author above mentioned, whose Writings cannot be too often quoted upon this Occasion: I shall apply it by a Paraphrase. Accounting for the Difficulties of transporting a Religion from one Climate to another, and in particular for the Failure of Christianity in *China*, he says, * "It seems, morally speaking, that a Religion should be strict and particular in its Doctrine only; but in its Discipline, general and unconfined. The Rules which prescribe the Practices of Devotion, should avoid the Detail of Forms ;;

* *Esp. des L.* Liv. xxiv. cap. 26.

Forms; for Instance, Mortifications might be enjoined, but not one Form of Mortification. Christianity is replete with Wisdom: Abstinence is of divine Origin; but a particular Mode of Abstinence is of human Institution, and may be altered." In the same Manner, the Principles of Laws justly directed, are all that is necessary to attain the Ends of Justice; the Practice is a Matter of local Regulation, and only of secondary Concern. The great Rules of Right are the same in all Nations, the low Practice of Courts is hardly tolerable in any; the former may be modified according to Circumstances, the latter cannot admit of Alteration; this only increases the Evil, it must be adopted altogether, or altogether rejected. Need I add in this Place, that no System of Law has so many Peculiarities as that of our own Country, in its Nature and Application, in the Causes that produced it, and the Effects that have followed from it? And I will add, without Offence to the Profession, that our Lawyers in general do not acquire an enlarged Knowledge of the noble Science they practise.—But our Law is replete with Wisdom: A Creditor is intitled to Security for his Debt; but Security of his Debtor's Person is a local Institution. It is right that every Man should receive Compensation for an Injury, and Regularity requires Forms; but *Writs of Capias, Arrests, Bail, Imprisonment, Pleadings*, are not in all Countries necessary to obtain it. It is not more absurd to consider parliamentary Representation as essential to Government, than to consider these as essential to Justice. Without the Spirit of *English* Government, and *English* Manners, these dead Instruments serve only as the Masks of Justice, which the Ignorant believe to be a Disguise assumed by Oppression. No Art can be taught by shewing the Tools of the Artist; the Pupil must learn their several Uses; and it may happen that, from Weakness of Constitution, he is not able to handle them; in this Case it is easy to adapt new ones to his Hand. Our *Assumpsits* and *Ejectments* and *Trespases*, our *Special Pleas* and *Rules of Evidence*, and *Habeas Corpus*, are our Tools of Law, by which we work out Justice; but no sharpening can give them that Effect in *Bengal*: New ones must be found out, or the Art will be useless or dangerous; It were better to abolish it.

† Even the Chief Justice of *Bengal* seemed sensible of this, when, upon a late Occasion, he told a Gentleman (Mr. *Cressy*) who referred him to *Magna Charta*, "That *Magna Charta* was made for *England*."

APPENDIX.

P O S T S C R I P T.

SINCE the foregoing Sheet were written, I have seen Two Papers of Proceedings in *Bengal*, which so fully confirm the general Reasoning contained in them, as well as some particular Observations, that I think it material to add the Subject of them to the present Publication. One contains a long circumstantial Narrative of a Suit carried on in the Supreme Court, the Cause of which arose at *Patna*, and is well known in *India* by the Name of *The Patna Cause*: The other contains Minutes of the Proceedings of the Supreme Council relative to the Court of Justice, not long after its Establishment. I have shewn a few of the Hardships that most result to Individuals from a rigid illiberal Application of the Rules of *English Law* in *Asia*, and likewise the publick Danger to be apprehended from the overbearing Increase of the Power of the Judges. To these Observations I with more particularly to apply the Contents of this Postscript. The Reader will make his own Reflections on the several Passages.

A FULL Account of the whole Proceedings in the *Patna Cause* (which are very voluminous) will soon be laid before the Publick; the short Outline of the Case, abstracted from the several Incidents that arose in the Course of it, is this.

Upon the Death of a rich *Mahomedan*, the Succession to his Estate and Effects is claimed by his Nephew and his Widow; by the former, as natural and adopted Heir to his Uncle in the Absence of his Father, Brother to the Deceased, who was then living; by the latter, under certain Deeds executed by her Husband, by which he makes over his Property to her. *Behader Beg*, the Nephew, in the Beginning of the Year 1777, which was soon after the Death of his Uncle, presented a Petition to the Provincial Council of *Patna*, setting forth his Claim, and praying an Enquiry into it. The Board, according to the usual Practice when Questions of *Mahomedan Law*

come before them, referred the whole Cause to the Decision of the Ecclesiastical and Civil Judges of that Law*, and directed them to report their Judgement to the Council. The Enquiry was immediately proceeded upon; and at the Conclusion of it the Judges report their Sentence to be in Favour of the Heir at Law (whom they declare to be the Brother of the Deceased) as to Three Fourths of the Property, and accordingly decree so much to be vested in *Behader Beg*, in Trust for his Father; the other Fourth they decree to the Widow, as in case of Intestacy; and they give their Reasons why the Deeds under which the claims are invalid, either as being forged, or otherwise illegal. The Council ratify the Decree, and direct the Judges to carry it into Execution. The Widow opposes it; the Judges apply to the Council for Support, and by their Orders she is compelled to acquiesce.

Her Fortune, though diminished, would still have enabled her to live in Ease and Elegance; and if her own Inclinations had decided, she might perhaps have been contented with it; but some evil Genius† suggested to her to fly to the Supreme Court for the Means of Revenge, in which she immediately commenced an Action of *Assault and false Imprisonment* (not against the *Patna* ‡ Council, but) against *Behader Beg*, the Three Judges who had decided the Cause, and all the Officers of the Court employed in the Execution of their Decree. The Idea of applying these Terms, and much more of applying this Action to their Conduct, is to the last Degree absurd; and I am sure no Man can read the Story calmly. The only Cause of this Action was the Decision made in Obedience to the Order of the Council. *Behader Beg* as Plaintiff claimed a Succession; the Judges did their Duty in deciding upon it; the Officers did theirs in serving them. The Bail demanded of them for these several Acts was a Sum equal to the gross Value of all the Property of the Deceased, about 36,000 l. Sterling. Without entering into the Particulars of the Evidence produced at the Trial of this

* This Proceeding is similar to that practised by the Lord Chancellor, when certain Facts are disputed by the Parties to a Chancery Suit; his Lordship directing them to be tried by a Jury in a Court of Common Law.

† Every Town in Bengal has its *Peas*.

‡ When the first Cause was decided, another was instituted against the Council; this was an After-thought.

this Cause, suffice it to say, that against *Bebader Beg* no other Charge was proved than that of having acted as Plaintiff against the Widow; and against the Judges there was no Proof of Corruption, nor of Resentment, nor of Neglect of Duty; they were proved to be Officers regularly assistant to the provincial Council at a fixed Salary, and upon this Occasion in the Exercise of an ordinary Function: Their pecuniary Circumstances, derived chiefly from their Salary, yielded no more than a Subsistence; those of *Bebader Beg* consisted wholly in his Expectations from his Uncle. After a long Hearing, the Court gave Judgement for the Widow, with Damages against the Defendants to the Amount of 36,000*l.* Sterling.

THE unhappy Defendants are delivered over by this Sentence to perpetual Imprisonment. Had the Damages amounted to one Tenth of the Sum, they were equally unable to discharge them: They were therefore brought down from *Patna* to *Calcutta* as Prisoners, to pass the Remainder of their Lives in hopeless Misery. The *Cazi*, (or Chief Judge), overwhelmed with his Distresses, died of a broken Heart on the Journey: The others were not so fortunate, without Regard to their Rank or Station, they were indiscriminately added to the Mass of a common Gaol, where their Sufferings have displayed to their Countrymen a frightful Monument of the *Humanity* of transported Laws of Freedom.

WHAT must we think of this Decision, when we learn from the Authority that made it, that the only Ground by which it can be justified, is a Maxim of the *Law of England*, which shews that the Council of *Patna* ought to have decided the Cause themselves, and not have delegated it to others? Sophistry may give what Name it will to this Transaction; but plain Sense will say that it is an unexampled Proceeding, a Punishment severe and ignominious, of *Mahomedan* Judges for Ignorance of *English* Law.

It presents to our View a most extraordinary Scene. We see a Cause already determined, arbitrarily revived, not by Appeal, or any ordinary Mode of Trial, and determined again in a new and unnatural Form, to which no Jurist can give a Name; the fixed Laws of a Nation set aside by an Authority

come before them, referred the whole Cause to the Decision of the Ecclesiastical and Civil Judges of that Law*, and directed them to report their Judgement to the Council. The Enquiry was immediately proceeded upon; and at the Conclusion of it the Judges report their Sentence to be in Favour of the Heir at Law (whom they declare to be the Brother of the Deceased) as to Three Fourths of the Property, and accordingly decree so much to be vested in *Behader Beg*, in Trust for his Father; the other Fourth they decree to the Widow, as in case of Intestacy; and they give their Reasons why the Deeds under which she claims are invalid, either as being forged, or otherwise illegal. The Council ratify the Decree, and direct the Judges to carry it into Execution. The Widow opposes it; the Judges apply to the Council for Support, and by their Orders she is compelled to acquiesce.

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rity unknown to them; a Claimant accused of Criminality for prosecuting his Claim according to the Laws of his Country, and punished for it; a sacred Character violated; Judges punished for an Act of Duty, tried by Foreigners by a Rule of Conduct taken from foreign Laws; Rank and Station confounded and levelled with the lowest of the People; a new Rule of inflicting Punishment established, and the accidental Value of a Subject in Dispute made the Measure of Guilt. If the King and Parliament of *Britain* were to recall the Judges of the Supreme Court, and adjudge them to pay the Amount of all the Decrees they have made to the several Parties complaining of them, and condemn them to *Newgate* in Default of Payment, the Resolution would not be more repugnant to the received Opinions of Mankind, than the Decision of the *Patna Cause*.

TO the Minutes of Council which follow, I will premise one general Reflection; they contain the Sentiments of Persons invested with the Government of *Bengal* upon this new legal Institution, and the Conduct of its Judges. In this Situation, as they must have been guided by a thorough Knowledge of Circumstances to a general, not a partial, Survey of both, the Judgement they have formed is justly intitled to the highest Respect. The Defects which they have pointed out must therefore appear in the strongest Point of View.

WHENEVER the imperial and judicial Powers of a State become incompatible with each other, it matters not from what Cause, if the latter are suffered to continue, the Consequence of the Struggle must be fatal to the former. The Reason is plain; because the Powers of Government must be employed in Support of the Laws, and in this Case they must be exerted against themselves. Here is therefore no middle Way left; the judicial Power must either be submitted to, or suppressed*. I say this of original, self-constituted:

* For the Truth of this, I refer to the last Dispatches from *Bengal*; from them we learn, that the latter Part of this Alternative has been actually adopted by the Supreme Council upon a late Occasion, as far as the Nature of the Case would admit: By a publick Act they opposed the Powers of Government to the Powers of the Court, and resisted the Execution of its Process by an armed Force. They say the Safety of the Province required this Interposition, and have therefore sent over a Petition to Parliament for an Indemnity to their Conduct. There needs no stronger Proof of the Defects of this Institution; if an Alteration does not take Place, every Session will produce a similar Petition, and a *Bengal Indemnity Bill* will make a regular Branch of the Business of every Session.

constituted Governments; such an Event is not likely to arise in derivative or deputed Governments, the Forms of which are more precisely ascertained, their Powers more closely limited, and which are besides at all Times subject to the Controul of the parent State. It has happened however in *Bengal*, and has arisen solely from the Peculiarity of the new System of provincial Administration established there. By the Act of Parliament, *the whole Administration of Civil Government* is vested in the Governor-general and Council: The Judges say, "that has nothing to do with us; let the Governor at his Peril interfere with the remotest Concerns of our Jurisdiction." Here we see a Court of Justice independent of the Government, and unconnected with it; the Powers of the latter, great and extensive in other Respects, closely tied down and confined with respect to the former, which, however apparently restrained, by being constituted sole Judge of its own Authority, is enabled to surmount all ideal Boundaries, after which it has none but its own Discretion, and must, from the Nature of Things, advance Step by Step till it has absorbed every other Source of Power, as a great Light swallows up a less.

Extract of the Proceedings of the Supreme Council of Bengal.

Minute from General CLAVERING, Colonel MONSON, and Mr. FRANCIS,
dated Nov. 21, 1775.

IN spite of numberless Discouragements, our Endeavours to serve the Company have not entirely miscarried; if more shall be expected from us, the Power and the Means must be proportioned to the End. Considering the Opposition and Resistance we meet with from every Quarter, we are in Truth unable to determine whether any, and what Powers are left to this Government. If by our Authority as Dewan, confirmed to us by Parliament, a Farmer be confined for Arrears of Rent, the Supreme Court of Judicature take the Cause out of our Hands, decide upon the Merits, and discharge the Prisoner. If we dismiss the Judge Advocate, he applies to the Supreme Court for a *Mandamus* to reinstate him in his Office. If we dismiss the Secretary of our own Board, we see him encouraged to bring an Action for the Salary against his Successor. If we order a *British*

Subject to repair to the Presidency, he pleads the Protection of the Supreme Court of Judicature, and declines or refuses to obey us. If, for Reasons of the most serious political Importance, we endeavour to support the Authority of the Country Government, and the Sovereignty of the Subah, we have not only the Foreign Factories, but the Supreme Court of Judicature, immediately to contend with. They publickly deny the Existence of such a Government, and affectedly hold out the Person and Authority of the Prince, to the Contempt of the World. According to the Doctrines maintained by the Judges, there is scarce any Act of Government, however necessary or expedient, which, if it tends to controul the Actions, or to thwart the Interest of Individuals, may not expose the Members of the Council to Actions in the Supreme Court. We even doubt whether we are authorized to prevent any Persons from quitting the Provinces and going up the Country, though we should be certain of their Intention to enter into the Service of a foreign Power. In these Circumstances, many useful and obvious Regulations for the Benefit of the Country must necessarily be left unattended to. A general Recoinage has been repeatedly recommended to us by the Court of Directors : Such a Measure is without Doubt indispensably necessary ; but it is of a Nature too delicate and important, and likely to be attended with too many Difficulties in the Execution, to be undertaken with Safety by a divided Government, with a *hostile Court of Judicature*. We could point out a Number of other Objects which would deserve our Attention, and of Abuse which call upon us for Redress ; but this is not a Season for a mere Majority of a Council to undertake any Measure for the publick Service, in which the learned in the Laws of *England* can discover any Thing to cavil at.

Fort William, April 11, 1776.

Minute from General CLAVERING, Colonel MONSON, and Mr. FRANCIS.

THE Contents of a Letter from the provincial Council of *Moorshedabad* on the 7th instant, in the Consultations of the Board of Revenue, recall our serious Attention to a Subject of the utmost Importance to the good Government and Welfare of this Country, and on which we have hitherto been restrained from expressing our Apprehensions or Opinions, by Mo-

tives of Caution and Reserve, which we think the Difficulty and Delicacy of our Situation demand of us; we mean the Jurisdiction which in Fact has been assumed and exercised generally over the Natives of these Provinces, by the Supreme Court of Judicature, from the First Meeting to the present Time. The above Letter states, that Two Officers of the Supreme Court of Judicature were arrived at *Moorshedabad*, and were to proceed to *Patna* with several Warrants, one of which was to seize the Body of *Rajah Dule Roy*, the Dewan of that Division, and produce him in Court by the 21st of *March*, unless he should give Bail for his Appearance. The Council of *Moorshedabad* conclude their Letter with the following Observation, the Truth of which we believe is generally felt all over the Provinces. "We shall not presume to point out to you, Gentlemen, the Consequence of the Supreme Court of Justice exercising their Authority over the Officers of the Collections on Complaints of this Kind, nor the Effect it has on the Minds of the People, to see a Person of the Rajah's Rank ordered to be seized and sent to *Calcutta*." Similar Writs have been issued in every Part of the Provinces. At *Dacca*, we were some Time ago informed that they had occasioned an universal Alarm through that District. The Effect of these Writs in the *Calcutta* District has fallen more immediately within our Observation. Zemindars, Farmers, and other Proprietors of the Lands, have been seized upon their Estates, and forcibly brought up to the Presidency, at the Suit or Complaint of other Natives, and detained here, or obliged to give Bail, according to the Nature of the Case.

In *Calcutta*, the Operation of the Dewannee Court of Adawlut has been totally suspended; the Phousdarry Cutcherry is abolished, and the Supreme Council have for some Months past declined taking Cognizance of Appeals from the Country Courts, in the Apprehension that the Legality of their Jurisdiction might be disputed by the Supreme Court, and their Decrees annulled. In this Situation, we see no Reason why Persons committed by Decrees of the Country Courts, may not be allowed to take our Writs of *Habeas Corpus*, and to transfer their Persons and their Causes to a new Jurisdiction, to which, for the Hopes of a Reversal of the Decrees or Sentences already passed against them, they may be willing to declare

declare themselves subject. If a Writ of *Habeas Corpus* be granted to every Person in Confinement who may apply for it, we fear it will be in vain for the Dewannee to commit a Renter, or other Debtor of Government, for Nonpayment of his Rent: by removing his Cause to *Calcutta*, he gains Time, defies the Authority of the Court to which he was heretofore amenable, and ultimately evades the Demand of Government, or makes it impossible to be recovered.

To these Considerations we beg Leave to add, that supposing the Powers of the Dewannee Courts not to be suppressed or suspended by any direct Declaration or Act of the Supreme Court, still it may happen that by Collusion every Native of *Bengal* may come within the Jurisdiction of that Court, since it depends upon the Parties themselves to refuse Submission to the provincial Courts, and to acknowledge or deny the Jurisdiction of the Supreme Court over them, as it may best suit their immediate Purpose. The Court of Dewannee Adawlut in *Calcutta* being now in Fact suppressed, there is no regular Course of Judicature by which the Claims or Petitions of the Natives in Matters relative to the Revenue, or any Civil Suits between Native and Native in *Calcutta*, can be determined. To this Defect we attribute in great Measure the Multitude of vexatious Suits and Petitions with which the Supreme Council is now loaded and oppressed. Until the Authority of that and the Phoufdarry Court shall be restored and acknowledged, we believe that not only the People must continue to suffer all the Inconveniencies necessarily arising from the Want of a regular Tribunal to which they may carry their Complaints, but that it will be found very difficult, if not impracticable, for Government to collect the Rents of this great City, or of the Purgunnahs adjacent to it. Sincerely distrusting our own Judgement, and wishing, in a Point of this Nature, to appeal to Experience rather than to Argument, we have restrained ourselves from entering into any Discussion of the Legality of the Powers assumed by the Supreme Court, or of the formal Reasoning by which a Claim to such Powers may be supported; we have waited to see the Extent and Operation of those Powers, with the Consequences which in Fact might attend them.

IN agitating a Question which turns upon the true Construction of an Act of Parliament, we are sensible of the great Advantage which Gentlemen deeply learned in the Forms as well as the Spirit of the *British* Laws, possess over us. When the Supreme Court issues Writs of *Attachment*, *Habeas Corpus*, or *Subpoena* in the King's Name, addressed to Persons whom the Legislature has described by the Title of Natives, in Contradistinction to *British* Subjects, who do not acknowledge His Majesty to be their Sovereign, and over whom His Majesty's Sovereignty is not declared; when we see some of the principal Persons, Natives of the Country, arrested by Order of the Supreme Court, and called down from the most distant Parts of the Provinces to answer to Suits instituted against them in this Court by other Natives; and that the Judges, instead of limiting their Jurisdiction to *British* Subjects, or Persons bound by voluntary Contract with *British* Subjects, or immediately in their Service, are determined to allow it an Operation which may and does include every Inhabitant of the Country*; we will not take upon us to decide whether their Conduct in this Respect is supported or condemned by the strict Letter of the Act of Parliament, and His Majesty's Charter, but we are ready to declare our clear and deliberate Opinion, that it is not conformable to the true Spirit of the Law and Charter, or to the Views and Principles on which the Supreme Court of Judicature was instituted by the Legislature; much less can we discover in the Proceedings of the Judges any Traces of that Moderation and Discretion which might have been expected from their Wisdom, and which ought to have been observed particularly at the Outset of a new Institution, and in the Exercise and Application of judicial Powers, not only new in themselves, but derived from a Sovereignty unknown to the People over whom those Powers were to be exerted. In a Situation so full of Difficulty and Hazard, and in which an unguarded or precipitate Assertion even of the Powers legally vested in the Supreme Court might be attended with the most dangerous Consequences to the State, we rather hoped for Assistance from the Judges in the Settlement of this Government, than had any Apprehension that they would carry their Jurisdiction to an Extent which, as we from the first apprehended, and as we are now convinced, must throw the whole Country into Confusion. (Largier)

* This Passage induces me to subjoin the Letter printed in Page 51.

THE private Discoveries and Explanations with which the Judges had honoured us before our Arrival in Bengal, tended to confirm us in this reasonable Expectation on the Extent and actual Exercise of their Jurisdiction. They seemed to us to entertain but one Opinion, as they certainly held but one Language; that it was their first Duty to take Care *ne quid detrimenti*, that no Mischiefs or Inconveniencies unforeseen by the Legislature to the Government or to the People should follow upon this Institution. Something undoubtedly was trusted to their Prudence; and admitting that any Defect or Want of Precision should appear in this Part of the Act of Parliament or in the Charter, or that every Inconvenience which might arise here from the Establishment of the new Court of Judicature was not foreseen or provided for by the Legislature, *still we are convinced that there were none which the Judges, by a discreet Exercise of their Powers, might not have qualified, corrected, or prevented.*

To this Time we have deferred making any strong Representation to the Honourable the Court of Directors on this important Subject, as well out of personal Respect to the Judges, as from the Fear of appearing to throw a hasty or unguarded Reflection upon an Act of the Legislature, and His Majesty's Charter, which we are told unavoidably create Evils and Inconveniencies not to be remedied by any discretionary Powers vested in the Judges.

OUR Duty to the Company will not permit us to withhold our Sentiments on this Subject any longer from their Knowledge. If the Honourable Court of Directors should see the Consequences of the Proceedings of the Judges to this Country and Government in the same Light that we do, it is our Hope and Expectation that they will take some early Measures, by Application to Parliament or otherwise, for reducing the Jurisdiction of the Supreme Court to just and rational Limits, within which we believe the Legislature intended to confine it; and for giving to the Supreme Council a Degree of Power and Authority sufficient to settle the Country, and to establish the Government of it on a solid and permanent Foundation.

(Signed) J. CLAVERING.

GEO. MONSON.

P. FRANCIS.

Letter from the Chief and Council of Dacca to the Supreme Council.

To the Honourable WARREN HASTINGS, Esq; Governor General, &c.
Council of Revenue.

HONOURABLE SIR, and GENTLEMEN,

WE beg Leave to submit to your Consideration Two Petitions concerning the Power of the Supreme Court of Judicature, of a different Nature from any of the Representations hitherto referred to you on the Behalf of the Inhabitants of these Districts; they both relate to Articles of criminal Jurisdiction. The Charges laid against *Mahomed Hady*, Zemindar of *Seraj*, *Shubpersaud*, a Zemindar of *Bommoy*, and *Bulram* a Merchant, being for an Assault and Imprisonment; and against *Ajooderam* and *Soobaram*, for wilful Murder. None of the Parties accused appear to have been at any Time employed in the Service of *British* Subjects; and Procefs had already been entered before the Provincial Officers of Justice.

WE dread the Consequences with which the Government's Revenue will be affected, if the Authority of its Courts is set at nought, and the Persons of Zemindars and Talookdars are liable to be carried away to *Calcutta* upon every Dispute or every Fray which may arise in a District where the Proprietorship of the Land is so extremely diffusive as in *Dacca*, and where the Spirit of the Inhabitants is so remarkably turbulent and litigious. As *British*-born Subjects, we revere and glory in the sublime System of *English* penal Law; but we should be wanting in the Duty we owe to you, Gentlemen, who are invested with the Government of this Territory, and to the Inhabitants of the Province we have the Honour to superintend, if we were to refrain from Remonstrance, when we see Men, neither connected with *Europeans*, nor conversant in their Customs, forced away to be tried as Criminals, upon the solemn Charge of Life and Death, at the Distance of 300 Miles from their Friends and Families, in a Language and Mode of Procefs totally unknown to them, in the Court of a *British* Sovereign who has never
been

been formally announced to them, and by the Test of Laws which have never been promulgated.

June 20, 1776.

We have the Honour to be, &c.
(Signed) C. W. BOUGHTON ROUS, &c.

The Two Persons mentioned in this Letter to have been accused of Murder, were actually under Prosecution for it in the Provincial Court, when a Warrant was sent from the Supreme Court to bring them to *Calcutta* to take their Trial there. They were accordingly removed thither, and confined in the common Gaol in Fetters; and in this State they remained for the Space of *Thirteen Months*. In *July, 1777*, they were arraigned; when it appeared that they did not properly fall within the Jurisdiction of His Majesty's Court; and they were then discharged, without the smallest Compensation for this long Imprisonment, and an enormous Expence incurred by bringing Witnesses to the Distance of 300 Miles for their Exculpation. The Matter of these Men declared to Mr. Rous, that their Defence cost him above 20,000 Rupees.

APPENDIX.

A P P E N D I X.

*Translation of a Persian * Petition from the Native Inhabitants of the † Subah Azeemabad to the KING.*

WE, the poor distressed Inhabitants of the *Subah Azeemabad*, Subjects of the most sacred King, the Shadow of the Almighty, have the Honour to represent to his exalted Majesty,

THAT whereas, for some Time past, by Reason of the Innovations which have taken Place, we have been seized with infinite Afflictions; and whereas, on Account of the Misfortunes which have befallen us, and which are augmented Day by Day, and aggravated Hour by Hour, the Knife has pierced to the Bone, and the Danger has come Home to our Lives: The Power of Submission and Patience is exhausted, and conceiving the Representation of our Situation not only proper, but incumbent from us:

From a Physician how long can you conceal your Pain?

It is not the Part of a wise Man to secrete his Disorder;

We lay before the Throne of his exalted Majesty, a Summary of the Circumstances of our Situation:

When this Country first became subject to the Dominion of the Lords of victorious Fortune, the *English* Gentlemen, great Fear and Apprehension prevailed in our Minds, from the Diversity of our Faith and Religion, and from the Difference of Customs and Usages; we doubted what Conduct those Gentlemen would have observed towards us; and to what Extremity they might carry our Affairs. But, after the Establishment of their Power and Authority, such was the Behaviour they observed, and such was the Kindness, Beneficence, and Favour, with which they treated us, that those Fears and Alarms vanished at once from our Minds. For in their Adjudications and Determinations of Causes, in their Decrees and Decisions upon

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Actions

* This Petition was accompanied with an original Instrument in the *Persian* Language (in the Nature of a Power of Attorney) authorizing the Committee of *British* Inhabitants to get it presented.

† *PATNA* Province.

Actions and Facts, they introduced no Change or Alteration; on the contrary, they established in the several Courts of Justice, with the utmost Attention and greatest Circumspection, that the Ordinances should be executed conformably to our Books, and agreeably to the Customs and Usages of this Country, as they had existed and prevailed from the Period of its Population.

This Conduct produced the utmost Satisfaction and Happiness to us, and the Decision of Causes was neither attended with enormous Expence, nor protracted to a Length of Time, the Source of Ruin and Vexation; nor was it repugnant to our Customs and Usages, which to us would be severe and insupportable. For this Reason we reposed in the Cradle of Ease and Security; notwithstanding, on Account of the Want of Employment from the Loss of our Services and Offices, and the Deprivation of the Means of Subsistence, we were affected with Poverty and Hunger, with narrow Circumstances and Distress.

But even however at that Time, as the Management of Affairs was delegated, on the Part of the *English* Gentlemen, to the Nobles of this Country, and Trust reposed in them; if some were reduced to Distress, yet others had Employment sufficient for their Maintenance, and, all Circumstances considered, we were upon the Whole happy and satisfied; and all of us, great and small, Nobles and Vulgar, employed ourselves in Thanksgivings and Praises to His Majesty, and in Prayers for the Increase of his Life and Prosperity; till at last the *English* Court of Judicature was appointed from the *Presence*, and came into this Country.

We were informed by many of the *English* Gentlemen, that the Cause and Reason of this was, that as the sacred Mind of his Excellent Majesty was strongly disposed, and firmly inclined, to promote the Happiness of the Inhabitants of this Country, and the Prosperity of the Country itself, from an Apprehension lest any of the *English* Gentlemen might extend the Hand of Violence and Oppression on any of the Inhabitants of it, and thus prove the Authors of Vexation and Distress to them, this *English* Court of Judicature was expressly established; that no one might impose the Hand of despotick Violence upon any other Person, but that the Court might be a Cause of Security and Happiness to the People here. This Information produced new Confidence and Satisfaction to us.

But when the Ordinances of this Court of Judicature were issued, as they were all contrary to the Customs, Modes, Usages, and Institutions of this Country, they occasioned Terror in us; and Day by Day, as the Powers of this Court have become more established, our Ruin, Uneasiness, Dishonour, and Discredit, have accumulated; till at last we are reduced to such a Situation, that we even consider Death to us as infinitely preferable to the Dread we entertain of the Court; for from this Court no Credit or Character is left to us, and we are now driven to the last Extremity. Several, who possessed Means and Ability, deeming Flight as their only Security, have banished themselves.

themselves from the Country ; but bound as we are by Poverty and Inability, and fettered by the dearest Ties of Consanguinity, we do not all of us possess the Means of Flight, nor have we Power to abide the Oppression of this Court.

We did till this Time hope, that since the most sacred Heart of his exalted Majesty is so well disposed to promote the Welfare of the People, and the Prosperity and Tranquillity of this Country, that, as soon as the Intelligence of the miserable State of the Natives here (from the *English* Court of Judicature) should reach his Royal Ear, he would certainly be induced, from his Wisdom and Benevolence, to commiserate our Condition ; but as, to this Time, which is a long Interval, the Powers of this Court have daily increased in Severity, and no Pity has yet appeared from that Quarter, being without Remedy, we have presumed in this Situation of Distress, to represent our own Grievances.

To lay before His Majesty a full Explanation of all the bad Innovations of this Court of Judicature, which in this Length of Time have produced universal Distress, would require innumerable Books and Volumes without End : We therefore content ourselves by giving a short Abstract. As one Handful is a Sample of a Heap, so, when this is presented to His Majesty, all the Circumstances will be revealed and laid open to his sublime Wisdom.

First, the Circumstances of Warrants ; which on the Instant of Application from any low, mean, contemptible Person, are issued against Men of Character, who have ever lived with Credit and Reputation, on any trifling Cause which even may have no Foundation ; and without allowing the Party any Delay or Respite he is carried off immediately upon his Arrival at the Court : If he has Means and Ability, at a very great Expence, to engage an Attorney, and procure Bail, still Years are required, before his Cause is brought to an Enquiry, to ascertain whether he is amenable to the Jurisdiction of the Court, or whether the Complaint of the Suitor against him be true or false. In this Interval he is ruined ; his Family and Affairs go to Wreck ; wretched and harrassed, without Credit or Character, he returns to his Home : So that Death itself, on every Account, considering his Condition, would be more eligible and better, than to return Home in this Condition. But, should he be unable to engage an Attorney and procure Bail, without further Delay or Respite, without any Enquiry or Investigation into his Case, he is shut up and confined in the Gaol ; and there remains for a Length of Time in Prison ; and, till he can engage an Attorney and procure Bail, his Cause does not come on to a Hearing. When afterwards it is proved upon Enquiry, that he is not amenable to the Court, or that the Complaint of the Suitor against him is ill founded, and his Cause is decided, yet from the Charges of this long Period, his Wealth and Substance being wasted, and being himself withheld from the Pursuit of the Occupations by which his Substance was procured, if he should escape with Life, and return to his Home, it is worse than Death itself.

And notwithstanding what is generally said, that if the Plaintiff should fail in proving his Complaint, they compel him to pay all the Charges incurred; and though it is so in Fact; yet when the Plaintiff is a low Person, what can they make him pay? But even when they do make him pay, the Amount received is expended in gratifying the Attornies of the Court, and something more besides. But by Way of Supposition, if even a small Overplus should remain in the Hands of the Party, yet, his Honour and Credit being lost, of what Use is Life to him?

And since the Regulations and Institutions of this Court have been carried into Execution in this Manner, and a Degree of Confidence has arisen from this, that if even the Suit of the Complainant should prove false or defamatory, there is no calling him to Account for it; the Traffick of the vilest and lowest of Knaves and Villains flourishes. An additional Cause of the Boldness and Confidence of such Persons is, that on Account of a trifling Dissatisfaction that may at any Time have happened to any Person, he may appear before the Court, and procure a Warrant; or else from a Motive only of obtaining Damages, he may make a Complaint of Defamation against another, whether true or false, alledging, that "such a Person, at such a Time, defamed me, or lifted his Hand up against me;" and having trained Two false Witnesses, carries them to give Evidence upon Oath, induced by the View of Reward; and immense Sums in this Mode are by the Court given to him as the Price of Reputation, notwithstanding such is his (the Plaintiff's) Condition, and that for Seventy Generations his Value in any Market was never equal to Five *Rupees*.

And thus for the Mean, and for Knaves, and those of no Credit, a comfortable Means of Subsistence is provided; whilst Men of Repute, and honourable Persons, who have lived with Credit and Reputation, are debased, ruined, dishonoured, and discredited by this Court, to such a Degree, that some from the Terror of it are fled, and others have withdrawn themselves to Secrecy, Privacy, and Retirement.

And even this is difficult; for every Man, according to his Ability, has an Establishment of menial Servants, Watermen, Bearers, and Sweepers, without which, People in the Country cannot subsist; and the Custom of this Country, from Time immemorial, has ever been, upon the Commission of a Fault in this low Tribe of Servants, to rebuke, threaten, and punish the Offender according to the Degree of his Fault; and no Person under any Government before this Time ever called any Man to Account for so doing; for, knowing such a Person to be the Servant of another, he knew also, if he had no Fear of his Master, he would not discharge his Duty; and on this Account, they performed their appointed Services with Industry and Application. But now from this Court, Affairs have come to this Pass, that though this low Tribe should be guilty of an enormous Offence, no Man of Character, from an Apprehension of this Court, dares to take Notice of him; uncertain, if he should be called to Account, what may be the Consequences.

The whole Basis of Right and Wrong in this Court is in the Hands of the Attornies of it. The Person to whom they are inclined, and with whom they are satisfied, him they constitute the Master of Right; but the Man to whom they are disinclined, and with whom they are dissatisfied, they make him in the Wrong.

We hear continually, that the Jurisdiction of this Court does not extend to those who are not Dependents on the Company; but several Persons, who could not dream that they were Dependents on the Company, and the Fact of whose Independence is clearer than the Sun, about which no Doubt of Hesitation was ever entertained, so that there should be any Necessity for ascertaining it, notwithstanding have had Warrants issued against them, and they are confined in the Gaol. After a Time, during which their Families are ruined, their Character and Reputation gone, if they should be released, what Advantage is it?

In the same Manner, if one Person has any Money Transactions with another, and should importune him for his Due, the Debtor appears before Court, procures a Warrant, and reversing the Order of Things, receives Thousands from his Creditor on a Plea of Defamation.

Thus in many Causes, which have been examined and decided in a District by the Superintendant of the Provincial Court of Justice, the Person who has lost his Suit prefers his Complaint in this Court, and procures the former Decree to be reversed; this is also a Source of Vexation and Distress to great Numbers; for why have they given Evidence before the Superintendant of another Court?

Or otherwise, a Writ of *Subpœna* is issued against many Persons in order to procure their Evidences, who are obliged to undergo the Fatigues of a Journey of One or Two hundred *Krores*, to leave their House and Families, to relinquish their Concerns in Obedience to this Mandate, and give Attendance; and after experiencing an Age of Vexation and Distress, if the Thread of Life should remain unbroken, they are released; or else their Life in this Manner becomes a Sacrifice to the Court.

As the People of this Country have no Knowledge or Information of the Process, Customs, and Institutions of this Court, or of the *English* Language, by a trifling Deviation, the Effect of Ignorance, they suffer, and are perplexed, and are involved in a Variety of Ruin and Distress; neither is any Mode of Relief open to them; no Man has the Power of recommending another, nor is there any other Remedy. If even, as a last Resource, a Person should find Means to appear before the Justices, and there explain and make clear to them that he is not amenable to their Institution, or point out the Falsehood of the Complainant's Suit, they reply: "We have no Remedy; the Rules of the Court are so and so; apply to an Attorney, and see if he can procure you Relief."

The Sum of what we have observed and what we still see is, that, if any Person has a Sufficiency to pay the Charges of the Attornies of the Court, and satisfy them, he obtains his Suit in the Court; or else he
loses

loses it. If this is Justice, then what is Injustice? For this Injustice is without Bounds.

In the same Manner as we experience Distress, Dishonour, and Disrepute from this Court, so it also occasions Loss and Detriment to the Government. Thus for Instance: Suppose a Person who has taken a District from the Government in Farm or Contract, he is obliged to collect the Rents of the Governments from the *Ryots* and *Zemindars*, and pay them to the Government: It is not in the Nature of the Tribe of *Zemindars* to discharge the Amount of their Rents with their own Free-will; but, on any Appearance of Coercion, one of them is dispatched without Loss of Time to the Court, who procures a Warrant against that Farmer or Contractor, who is treated with the same Contempt and Ignominy as if he were a Dog, and is dragged away: The Amount of his Engagements remains unpaid.

Thus the Violence and Oppression of this Court, in an Act of Severity and Cruelty, were experienced at *Dacca* by Men of Character and Reputation, and high Stations, to such a Degree, that the Tongue is incompetent to describe it. Mr. *William Boughton Rous* was at that Time Chief at *Dacca*, and is since gone to *Europe*: Whenever he is examined upon Oath as to the Circumstances of this Violence, and oppressive Transaction, the Whole will be made clear to your sublime Comprehension.

What has been here represented is but a Particle; it is as One from a Thousand, a Little out of Gross; but since the sacred Mind of his Supreme Majesty (the Shadow of the Almighty) is earnestly directed to the Advancement of the Prosperity of this Country, and the Ease and Happiness of the People, we hope he will, out of his Compassion and Love of Justice, look down upon the Contents of this Petition; and, having weighed and considered them, take Pity upon the Situation of us who are humble, infirm, without Help, and in Bondage; by removing the Establishment of this Court from our Heads, which is the most absolute Tyranny and Oppression; and that he will out of his Grace and Benevolence ordain, that the Rules of Justice shall be administered to us according to the fixed Law of the Country, as it has ever prevailed, agreeable to our Usages and Customs; that, being thus placed under the Shadow of his Favour, and in the Circle of Ease and Security of His Majesty's Benevolence, we may continually pour forth fresh Praises and Thanksgivings for the Increase of his Life and Fortune. But if (which God forbid) it should so happen, that this our Petition should not be accepted, and should be rejected at the Chamber of Audience, those amongst us who have Power and Ability, discarding all Affection for our Families, will fly to any Quarter we can; whilst the Remainder, who have no Means or Ability, giving themselves up with pious Resignation to their Fate, will sit down in Expectation of their Death. After this let the Soil of this Country remain, and the Court of Justice! Let the Court of Justice remain upon the Earth, or the Earth cover it!

*Translation of a Persian Petition from several Inhabitants of the
DACCA Province, to the Governor General and Council at
Fort William *.*

WE, the poor distressed Inhabitants and Residents of *Dacca*, represent, that the Administration of Justice and Controul of Affairs in this Country have ever been after the Mode and Manner of *Hindostan*; and that we your faithful Subjects, who are Inhabitants, Residents, and *Rygors* of this Country, were satisfied with the Mode of Decision practised by the Nobles of *Hindostan*, and with the Examination of Causes according to the same Usages and Customs: But now that the Controul of Affairs and Administration of Justice to the poor and distressed Inhabitants of this Country are fallen into the Disposal of the *English* Gentlemen, Warrants are continually issued against the Inhabitants of this Country, who are by no Means reconciled to the *English* Mode of Process; and as soon as a Warrant arrives, our Credit and Reputation are attacked; but as we, your faithful People, are totally unacquainted with the *English* Language and Writings, with the Rules and Institutions in the Administration of Justice, and the Mode of Process, and on Account of this Ignorance, and for Want of Information in the *English* Ordinances and Usages, we fall into Errors, and are deprived of all Possibility of Instruction; under these Circumstances, if such Laws are permitted to extend to us poor People, we have not the Power to abide them: Before we come to understand a Transaction, a Sentence of Punishment is pronounced against us, and our Lives, our Characters, and Reputations are affected. On this Account our own Existence, and the Subsistence of our Children and Families, becomes a Cause of the most serious Apprehension to us. And we poor People, who have taken up our Residence in the Country, notwithstanding the Want of Employment, tempted only by the Protection, Justice, Equity, and Security in this Country, have relinquished our Habitations and Countries; and with or without Employment, in Hunger and Want, have at all Events resided under the Shadow of the Gentlemen. Now from the Length of Time which occurs in the Decision of Causes, the enormous Charges of the Attornies, amounting to such a Sum, even before the Case is brought to a Decision, and a Discrimination

* This Petition was occasioned by the Proceedings which have given Rise to the foregoing *Observations*, and was originally intended to have been presented to the Governor General and Council at *Fort-William*; but the Natives, deterred by their Apprehensions of the Court of Justice, never delivered it. It was afterwards communicated, by the Person intrusted with the Charge of it, to the Committee of *British* Inhabitants, who thought proper it should be laid before His Majesty's Ministers, as an additional Proof that the Natives are highly dissatisfied with the Establishment of the Supreme Court. The original *Persian* Petition is now in the Possession of the Earl of *Hilborough*, one of His Majesty's principal Secretaries of State.

nation established between Right and Wrong, that it cannot be discharged, even by the Sale of our Effects, and by employing all our Credit; but, if they are not paid, our Life and Reputation are in Jeopardy. If the Gentlemen will not hear our Complaint, we will in our ruined Condition fly to some other Country. We therefore hope for your Favour and Benevolence, that Warrants may not be issued against us, who are Tenants and Inhabitants of different Orders in this Country: for it is impossible for us to support the Disgrace, Severity, and other Consequences attending on *English* Warrants. Let Justice continue to be administered to us according to the Custom of *Hindustan*, for with this we are satisfied. From the Confidence we repose in your Humanity and Justice, we hope to be relieved from the Terrors and Horrors of Warrants; and we shall employ ourselves in Prayers for the Increase of the Glory and Dignity of His Majesty and the *English* Gentlemen.

Extract of the Proceedings of the Dacca Provincial Council, dated the 18th of September, 1777.

PROCEEDINGS of the 15th instant read and approved.

Read the following Petition from the Vakeel of the Zemindar of Ootersavagepore, lately delivered whilst his Master was in Confinement at Dacca upon a Warrant.

Translation of a Petition from the Vakeel of Loll Roy, Zemindar of Ootersavagepore.

YOUR Petitioner *Anunderam*, Vakeel of *Loll Ram*, the Chowdry of the *Pergunnab Ootersavagepore*, represents that *Bungoo*, Chowdry, Partner of his Constituent, having falsely charged him with Plunder and Devastation in the Cutcherry of the Supreme Court of Mr. *Peat* has had your Petitioner's Constituent, together with his Gomastahs, arrested and confined in the Gaol. Your Petitioner's Constituent has never been employed by the Company, or in any *English* Service. He is hopeful for Justice.

(Signed) ANUNDERAM, Vakeel.

A true Translate,

(Signed) WILLIAM CATOR,

Persian Translator.

Read likewise a Petition of *Imaum rel Deen*, Zemindar of *Nazirpore*, who is now in Confinement.

The

The Arzee of Seud Emaum Ooddeen Mahomed, Chowdrie of Tuppah Nazirpore.

CHURS Tangra Collab, under Tuppah Nazirpore, formed by the Inundation of the River, is in my Possession, but is contested with me by Mahomed Edrauk, Talookdar of Pergunnab Bungroolab; and he having complained in the Cutcherry, an Aumeen, at our mutual Application, was taken into the Mofussil; but he not attending the Aumeen, absconded. After this Ramsunker Dofs, the Brother of Ram Cunt Dofs, Gomastah to Mr. Lear, interfering in the Dispute, complained against me to Mr. Peat, took out a Warrant, and confined me. Dofs above-mentioned has given in Writing, that I have taken from him Goods and Money to the Amount of Rupees 1,752 : 8, which is false; for I have nothing to do with Dofs aforesaid, neither am I indebted to any of the English. Dofs above-mentioned is in the City; let him be summoned to the Presence, and Justice rendered.

(Signed) SEUD EMAUM OODDEEN MAHOMED.

A true Translate,

(Signed) WILLIAM CATOR, Persian Translator.

Read also the following Petition of Laudly Begum.

The Arzee of Laudly Begum.

PARTICULARS relating to a Buzar, appertaining to the Musjud of Kbar Tullub Khan, deceased, as follows:

Kbar Tullub Khan was, during his Life-time, Subah of the Kingdoms of Bengal, Orissah, and Babar. At that Time he came to the City of Jabaungernagur; and this Musjud, which is called by the Name of Kbar Tullub Khawn, he built, and also established a Fish Buzar, the Revenues of which were to defray the Charges of the Musjud. Kbar Tullub Khan aforesaid remained a long Time Subah of this City: Since which he received from the King the Title of Moorshud Kully Khawn; and for some Business he left this Place, and went and gave his Name to the City of Moorshedabad, which he also formed, and there also built a Fort. Some Time afterwards he received the Title of Jaffeir Khawn, and he there also erected Musjids, and allotted several Jaghiers for their Support. By the Will of God he died. After his Death his Son-in-law, named Sujah Uddeen Mahomed Khawn Sujabul Dowlab, (who is my Grandfather) succeeded to the Subadarry of his Father-in-law. Some Time after he has died; by which the Subadarry was written in the Name of my Father Suffrage Khawn Allaued Dowlab. Afterwards a Servant of my Father, named Ally Virdee Khawn Mahabul Jung, assassinated him, by which Means he became himself Subadar. To this present Time no Subah or Sovereign has ever attempted to take from the Musjids at Moorshedabad, &c. Places, the Jaghiers that were allotted for their Support, but left them to remain as formerly. Now the Fish Buzar in this

this City, which was allotted for the Support of the above-mentioned Musjud, *Akasuzzell Ally*, out of Spite, has destroyed, and taken the Fishermen away to a new Buzar adjoining to the above, which he has raised: Since which, in the Month of *Bbaudoon*, of the *Bengal Year 1183*, the Fishermen, of their own free Will, came and rebuilt their Shops, as formerly, in the Buzar belonging to this Musjud. Upon which *Aka* aforesaid sent Peons to take the Fishermen away; but upon my giving in a Durkhauft to the Council, a Negaban was sent to the Buzar, and prevented his Peons from taking the Fishermen away. Now the Son of *Aka* aforesaid has complained in the *English* Court of Justice, and Mr. *Peat* has sent me, at the Complaint of Two Ryotts, Two Chits under his Signature; and I answered them in the following Manner: "I am not a Servant of the *English*, and I will answer to no Complaint in the *English* Court." You, Sir, who are the Ruler of the Country, send a Hircarrah from the Presence, that the Gentleman above named may not any way distress, or cause any Loss to me. I am a Widow, and, besides the Ruler of the Country, have no Protector.

(Signed) LAUDLY BEGUM.

A true Translate,

(Signed) WILLIAM CATOR, *Persian* Translator.

The Two Notes from the Attorney Mr. *Peat* to *Lolly Begum*, as mentioned in her Representation, are as follows:

LOLLY BEGUM,

I AM directed by *Ruffiah* to inform you, That if you do not make him Satisfaction for the Force used to make him leave his former Place or Stall in the Buzar, and permit him to return back, if he chuses, to the Buzar of *Mamood Haffain*, Subadar, an Action will be commenced against you.

July 17, 1777.

(Signed) S. PEAT, Attorney at Law.

LOLLY BEGUM,

I AM instructed by *Hablau Ryotts* to inform you, That if you do not make him Satisfaction for the Force used against him by your Orders, and permit him to return to his former Place in the Buzar of *Mahomed Hussan*, Subadar, an Action will be commenced against you.

July 17, 1777.

(Signed) S. PEAT, Attorney at Law.

The Board at the same Time record the following Notes from Mr. *Peat* to sundry Zemindars.

One to *Imaum-rel-dein*, Zemindar of *Nazirpore*.

One D^o. addressed to *Mookey Ullah* and *Punnab Ullah*, joint Zemindars of *Jelaulpore* till *Punnab Ullah's* Death, which happened about a Year ago.

One D^o. *Nursing Chowdry*, Zemindar of *Pergunnab Gopaulpore*.

MOOTER

MOOTEE ULLAH, and PUNNAH ULLAH,

I AM instructed by *Gollaup Podar* to demand of you A. R'. 8, 198, due on several *Bengal Bonds*. In case of Nonpayment, I am directed to proceed in commencing an Action against you in the Supreme Court.

August 1, 1777.

(Signed) S. PEAT, Attorney at Law.

MEEREMONDEE, BEEROM SARDAR, PEER CAWN,

I AM instructed by *Ramsunker Dofs* to demand of you the Payment of A. R'. 1,752 : 8, which were taken by Force by you ; and also that you make Satisfaction to them for the Force and Injury, and the Imprisonment of *Meer Bengally* and *Boty Doopee*, or you will be sued in the Supreme Court for so doing.

July 24, 1777.

(Signed) S. PEAT, Attorney at Law.

NURSING CHOWDRY,

I AM directed by *Bindaburn* and *Beebarry Day* to inform you, That, unless you make them Satisfaction for the assaulting, beating, and imprisoning them, an Action will be commenced against you, in the Supreme Court.

August 2, 1777.

(Signed) S. PEAT, Attorney at Law.

Agreed they be transmitted with the following Address to the Honourable Governor General and Council.

To the Honourable WARREN HASTINGS, Esq; Governor General, &c. Council,
Fort William.

HONOURABLE SIR, and GENTLEMEN,

THE Extension of the Authority of the Supreme Court of Judicature daily furnishes new Instances of Interruption to the current Business of the Revenue. Were its Operations merely confined to those Persons, who, from a Connection with the Company, or any *British* Subject, fall clearly within the Description of the Act of Parliament, we could with less Propriety remonstrate: We might provide against known Inconveniencies: But when it is exercised over Persons no way connected with *British* Subjects, and over Zemindars residing upon their Lands, who cannot by the most distant Implication be considered as Servants of the Company, there is surely Reason to complain that the Law has not the Effect intended by the Legislature. We were inclined to hope that, as an Attorney is supposed to be learned in the Law, and conversant in the Practice of the Court he belongs to, much Convenience might have arisen to the People of the Province from the Residence of a Gentleman of that Profession at *Dacca*, that Individuals might have been instructed in what Cases, and against what Persons, their Redress would regularly be in the Supreme Court; and that those whom the Law has not made amenable might not be exposed to Trouble, nor the Govern-

ment be obstructed in the Collection of its Revenue. Sorry we are to say that we have yet experienced no such Effects.

It is in vain for us to make publick the Clauses of the Act of Parliament, or to explain the Orders you have been pleased to send us in Consequence of our former References, when a Zemindar, who has been advised to reply to the Lawyer's Note, that he comes not within the Jurisdiction of the Court, is actually a few Days afterwards committed to Prison by a Warrant. Thus no Man can say who is and who is not within the Jurisdiction; and surely nothing favourable can be expected from a Law or its Application in Practice, which is deficient in the primary Excellence of all Laws, Certainty.

As Circumstances arise, it is our Duty to communicate them to you, that you may pursue such Measures as you shall judge expedient; for this Purpose, we inclose the following Papers:

PETITION from the Vakeel of the Zemindar of *Ootersavagepore*, delivered whilst his Master was in Confinement at *Dacca* upon a Warrant.

PETITION from *Imaum-rel-Deen*, Zemindar of *Nazirpore*, who is now in Confinement.

PETITION from *Lally Begum*, Daughter-in-law of *Serfraux Cawn*, formerly Nabob of *Bengal*.

Two Notes from the Attorney to *Lally Begum*.

ONE to *Imaum-rel-Deen*, Zemindar of *Nazirpore*.

ONE addressed to *Mootey Ullab* and *Punnab Ullab*, joint Zemindars of *Jalaulpore* till *Punnab Ullab's* Death, which happened about Ten Years ago.

ONE to *Nursing Chowdry*, Zemindar of *Pergunnah Gopaulpore*.

These Papers have fallen into our Hands accidentally. Had we taken the Pains to enquire and search, the List might with Ease have been greatly enlarged. We have not an Idea that any one of the Persons abovementioned can be found liable to the Court's Jurisdiction; but that Point is not to be ascertained without a tedious and expensive Process at *Calcutta*; and we can say from private Knowledge, *those Processes may take up a Twelvemonth, and are not conducted without an enormous Expence*. In the mean Time, both the Government and the Individuals suffer: For Instance, the Zemindar of *Nazirpore*, who pays an annual Revenue of above 40,000 Rupees, is seized by a Warrant in order to be carried away to *Calcutta*, at the Instant he was proceeding to his Lands to take Measures for discharging the Revenue for which he has bound himself.—Possibly he may be absent for many Months. The Collections will be ill conducted during the Master's Absence, the Revenue of the Government fall short, and at last his *Pergunnah* is sold to make good the Deficiency. It will be a poor Compensation to the Zemindar in the End, to be informed that he was unjustly arrested. As to an Action for Damages, or a Prosecution for Perjury, substantial Proof is difficult, and the Issue extremely dubious.

There

There is one other Point of View, in which we would wish to place this Subject, and the ultimate Prospect it exhibits is truly alarming. It is notorious the Zemindars have at all Times borrowed Money from Merchants. As the Traffick was desperate, the Lender took an Interest and Premium proportioned to his Risk, and that most frequently deducted from the first Advance. The Merchant nominally suffered many Losses; but upon the Whole his Business was profitable. If the Zemindars should be rendered liable to the Jurisdiction of the Supreme Court, we doubt not but those Claims would be revived to an Amount exceeding One Year's Revenue, and might occasion a sudden Transfer of almost all the landed Property in Bengal; a Concussion too violent for any State to bear.

Under the present unsettled State of Jurisdiction, we would not venture to assure you of our Hopes to realize the Revenue, even upon the most moderate Valuation; and all Attempts on our Part to enforce the Authority of the provincial Government must be vain, unless some more summary and efficacious Method be pursued to ascertain what Persons do really fall within the Description of the late Act of Parliament, and to afford Redress to those, whom either wilful Perjury in the Complainants, or an ambiguous wording of an Affidavit, taken in a Language which the Party himself understands not, may have exposed to a vexatious and expensive Prosecution in His Majesty's Court.

We are, &c.

Dacca, September 18, 1777.

(Signed) C. W. B. Rous, &c.

Extract of the Proceedings of the Dacca Provincial Council, dated the 22d of September, 1777.

THE Board now record the following Letters which have been written to the Honourable Governor General and Council since the last Meeting, with the several Enclosures that accompanied them.

N^o IV. *To the Honourable WARREN HASTINGS, Esquire, Governor General, and Council, Fort William.*

HONOURABLE SIR, and GENTLEMEN,

IN Addition to our Address of last Night, we now enclose you a Translate of the Letter therein mentioned from the Provincial Phoufdar Syed Allee Cawn, which you will observe was written before his House had been forced.

We also send you Copy of a Letter from Mr. Reed, the Assistant Surgeon, which will shew you what little Hope there is of the Recovery of the Person who received the Shot from Mr. Peat.—No further Particulars have yet come to our Knowledge, except by vague and publick Reports; but Syed

Allee

Allee Cawn having intimated that he purposes publickly to attend our Board when it shall be assembled, we hope he will enable us to give your Honourable Board a more exact Detail of the Transaction.

Dacca, September the 21st, 1777. We are, &c.

N^o V. *Translation of a Letter from Syed Allee Cawn to the Chief, received September the 20th, between 3 and 4 P. M.*

AT the Time of Noon suddenly *Doondy Jemadar*, having come from Mr. *Peat*, said to *Jaggernaut*, *Peshcar* of the *Sudder Phousdary* of *Dacca*, "Get up;" and he set down before him. How much soever he was questioned, and told that Warrants are not issued upon Officers of the *Nizamut*, not a Syllable was answered; but at once, many People with Clubs in their Hands arrived. After which, the said *Doondy* asked, "Are the People arrived?" Reply was made,— "They are arrived."

The said *Doondy* then made a Noise and said, "Seize the Waist of *Jaggernaut*, and take him away." Seizing the Waist of *Jaggernaut* and taking him away, they began beating him, at the same Time speaking of the *Nabob*, of the Gentlemen of the Council, &c. in Terms of Abuse and Reproach; also cut the Hands of a *Sepoy* who is stationed with the *Phousdar*, set down at the Doors, sent Intelligence, called almost Fifty People together. Seeing this, I fastened the Gate. They are throwing Bricks into the House. They are forcing the Gate. They have plundered the *Palanquin House*, and destroyed the *Palanquin*. As yet the Gate is fast. If (which God forbid) they should force the Gate, the Honour of our Women is affected; deprived of which Honour, I put no Value upon Life. You, Sir, are Chief; what is the Reason that all these Oppressions come upon me? Let me have Justice.

A true Translate,

(Signed) WILLIAM CATOR, *Persian Translator.*

Copy of a Letter from the Assistant Surgeon to the Chief.

N^o. VI. To C. WILLIAM BOUGHTON ROUS, *Esquire.*

SIR,

Agreeable to your Desire, I waited on *Meer Allee*. It was between Five and Six o'Clock when I got to his House after receiving the Shot. I found him wounded in the Belly, about Two Inches from the *Lenia Alba*, towards the right Side, and about Two Inches higher than the Navel. The Orifice of the Wound was so large as to admit my little Finger. He had not bled much outwardly, was feverish, his Pulse quick and hard, complained of Pain all over his Belly, and down the Inside of his left Thigh, and of great Thirst. I introduced a Probe about Two Inches into the Wound, but could not get it any further without Danger of aggravating the Symptoms by hurting some of the *Viscera*.

From his Position when he received the Wound, and from what I could judge from probing, I conjecture that the Ball went towards the back Part of the left Side, rather obliquely downwards; it went through a Fold or two of his Jummah or Gown, the Skirts of it being wrapt round his Waist; the Cloth of it was burnt in one or two Places, I imagine by the Gunpowder. He had no Cumerband on.

He complained much of Pain in his Shoulders and Back; and upon Inspection I found several Contusions upon these Places. Finding it impracticable to trace the Ball, and dangerous to attempt it, I dressed the Wound, took some Blood from his Arm, ordered him some Medicines, and left him. Four Hours afterwards my Servant, whom I had sent to enquire how he did, returned, and told me that he was seized with a Vomiting, and complained of great Pain in the lower Part of his Belly.

Upon the Whole, though I cannot positively say that the Wound will prove mortal, I do think that it will.

Dacca, Saturday Night,
Sept. 20, 1777.

I am, &c.

(Signed) J. REED

To the Honourable WARREN HASTINGS, Esquire, Governor General, and Council,—Fort William.

HONOURABLE SIR; and GENTLEMEN,

WE are extremely sorry to advise you, that a Fray has happened this Day between Mr. Peat and his Attendants, and the Officers of the Phoufdary. We are not sufficiently informed of the Particulars to be able to give your Honourable Board an exact Detail; but, by the Copy of Mr. Peat's Letter to the Chief inclosed, you will observe a Person has been shot: we learn that Two or Three are wounded, but not dangerously.

It has been reported to us, that the Person shot by Mr. Peat is the Brother-in-law of the Provincial Phoufdar, and by the last Account he was senseless. The Ball having passed through his Bowels, it is apprehended he cannot survive long.

Our Chief has stationed a Party of Sepoys over Mr. Peat's House, as well to guard him from Molestation, as to prevent his Escape in case the Man should die; and a Reinforcement of the Militia has been sent to the Phoufdar to keep the Peace of the City.

The Provincial Phoufdar wrote a Letter to the Chief upon the first Attack being made; but before any Answer could be sent the Fray happened, and Mr. Peat's Letter was brought to the Chief.

Jaggernaut is the publick Dewan of the Provincial Phoufdar, and the Fray is said to have happened in the Phoufdary Court.

We enclose also a Copy of a Letter Mr. Peat has written to Lieutenant Cow, the Commandant of the Militia Sepoys. Upon the Subject of the Demand made in this Letter, and that to the Chief, we shall remark only, that should Mr. Peat produce or send any of His Majesty's Writs to us,
formally

formally requiring our Assistance, we certainly shall consider ourselves as bound to comply.

It has been impossible to prepare a Translate of the Phousdar's Letter to accompany this.

Dacca, Saturday Night,

We are, &c.

Sept. 20, 1777.

Mr. PEAT's Letter to the Chief.

To CHARLES WILLIAM BOUGHTON ROUS, Esquire.

SIR,

AN Arrest was made this Morning under my Directions, as Deputy Sheriff, of *Jaggernaut* Dewan. Resistance was made, and the Man is still not taken. I was attacked by a Man with a Sword and Target, and in my Defence shot the Man. If you please to send me Sepoys to guard me, or take me if you think proper into your Custody, I shall be glad. In the mean Time, I request you will send Sepoys to take the Man who is arrested into Custody.

Dacca, Sept. 20, 1777.

I am, &c.

Syed Allee Cawn himself attending the Board, delivers in the following Representations and Papers.

The Representation of SYED ALLEE CAWN.

ON Saturday, the 17th of *Shawbaun*, I was sitting in my Dewan Khannah, with the Amlahs of the Cutcherry, and several Friends, when *Doondy* Jemadar belonging to Mr. Peat, about Noon, unexpectedly came, and said with great Contempt to *Jaggernaut*, Peishcar to the Phousdary of the *Sudder* Division of *Dacca*, "Rise," and set himself before the Peishcar: How much soever I asked, "What is the Matter or Reason? if it is a Warrant, it has not Power over a Servant of the Nizamut," not a Syllable was answered; but there came out at once a hundred People with Clubs in their Hands, and on their Arrival, the said *Doondy* made a Noise and said, "Seize the Waist of *Jaggernaut*, and take him away." He seizing the Waist of *Jaggernaut* aforesaid, and taking him away, beat him, and they were proceeding on their Way; a Centinel, who was stationed with the Phousdar and guarding the Arms House, was wounded in the Hand with a Kittar, on which the other Sepoy seized the Kittar from out of his Hand, and kept it himself. In the mean Time *Jaggernaut* escaped from out of their Hands, and run away; after this *Hurry Sing*, Havildar of Sepoys, &c. how much soever he asked of *Doondy's* People, and those that were with him, "What is the Matter, what Authority have you? if you have a Note or Letter or Warrant, shew them;" they shew nothing under this Circumstance. How much soever it was said, "In case you say nothing go away: What do you sit for?" They went not, and answered nothing but Abuse; they grossly abused the Gentlemen of the Council and the Chief of *Dacca*, also the Nabob; and during

during this more People arrived, in so much that the People of the Phouddarry seeing the Croud shut the Gate, on which Bricks and Stones were thrown from without into the House, and they plundered the Palanquin House that was on the Outside, also stole the Utensils belonging to the Palanquin, &c. Some Time after the above-mentioned Gentleman arrived, and having broke the Door of the House entered it, and his People began to plunder, and distribute Blows with Clubs. *Sied Mokrum Khawn*, my Father, on seeing the above Gentleman, having rose, went to that Gentleman, and said to him, "Forbid your own People to make an unnecessary Dispute, or to oppress; *Jaggernaut* is not here, his House is separate." During this, the said *Doondy* struck *Khawn* aforesaid with a Sword, and the aforesaid Gentleman wounded *Meer Hussain*, the Son-in-law of *Mokrum Khawn*, and my Brother, with a Ball from a Pistol in his own Hand. *Mirza Hussain Ally*, *Meer Shajowaud Ally*, *Fahkeer*, *Khodadaud Khawn*, and *Meer Abmud Ally*, Merchants, who were on a Visit, were wounded with a Sword, Spear, and Club. After this, the People of the above Gentleman dispersed themselves in the House, went into the Houses of the Mutsuddies that were behind the Dewan Khannah, and plundered them of every Thing. You, Gentlemen, are the Rulers of the Country; on an Enquiry order Justice. Excepting over the Servants of the Company, and the *English*, a Warrant has no Authority. *What Crime have I committed, that my House should be entered and plundered, also that my Father, Brother, and other Men Inhabitants of the City, who had come on a Visit, should be wounded and disgraced? I pray for Justice.*

(Signed) SIED ALLEE KHAWN.

A true Translate,

(Signed) WM. CATOR, *Persian Translator.*

The Representation of MEER SHAHJOWAUD ALLEE, Fahkeer.

ON Saturday, the 17th of *Schauban*, I went on a Visit to the House of *Sied Allee Khawn*, and before had no Intelligence of a Dispute, when a Croud of People belonging to Mr. *Peat* arrived at the Door with a great Noise and Disturbance, when *Khawn* abovenamed ordered one of his People to shut the Door, and the Door was shut; after which the Men belonging to the said Gentleman began to throw Bricks and Stones from without; some Time after the said Gentleman having arrived, and broken the Door of the House of *Khawn* aforesaid, entered the House, and the Men belonging to the said Gentleman began to distribute Blows; on seeing this Proceedure, I stood on one Side; where as they assembled there I made many Supplications, and said, "I am a *Fahkeer*, I have no Dealing with any Man; why do you unjustly beat me and put me to Pain?" But they shewing no Friendship wounded me with a Spear, also my Teeth with a Club. I therefore pray that on an Enquiry I may be ordered Redress.

(Signed) MEER SHAHJOWAUD ALLEE, *Fahkeer.*

A true Translate,

(Signed) WM. CATOR, *Persian Translator.*

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The Representation of KHODADAUD KHAWN.

ON Saturday, the 17th of *Schauban*, of the Year 19th, I went on a Visit to the House of *Sied Allee Khawn*, was sitting with *Sied Mokurum Khawn*, and before had no Intelligence of a Dispute, when a Croud of People belonging to Mr. *Peat* arrived at the Door with a great Noise and Disturbance, on which *Khawn* above-mentioned ordered one of his own People to shut the Door, and the Door was shut; after which the Men belonging to the said Gentleman began to throw Bricks and Stones from without. Some Time after the said Gentleman having arrived, and broke the Door of the House of *Khawn* aforesaid, entered the House, and began distributing Blows. I, seeing this Procedure, stood on one Side, and the Men belonging to the above Gentleman set on me and beat me with Clubs. I pleaded much, "I am come on a Visit; what is my Fault that People unjustly strike me?" I was not heard, and was wounded with the Blow of a Club. I therefore pray that the oppressive Rioters may be called to the Presence, and Justice rendered.

(Signed) KHODADAUD KHAWN.

A true Translate,

(Signed) WM. CATOR, *Persian Translator.*

The Representation of MEER AHMUD ALLEE, Merchant.

ON Saturday, the 17th of *Affin*, I had come to the House of *Syed Allee Khawn* for the Sale of some Merchandize; and *Khawn* aforementioned being in the inner Apartment, I was sitting with *Mokurum Khawn*, and before had no Intelligence of a Dispute, when many People belonging to Mr. *Peat* arrived with a great Noise and Disturbance; on which the said *Khawn* told one of his own People to shut the Door, and the Door was shut; when People belonging to the abovenamed Gentleman began to throw Bricks, Stones, and Sticks, from without. Some Time after the abovenamed Gentleman arrived with a Croud of People; and having broken the Door of the House and entered the House, began distributing Blows. I was desirous of running away with the Merchandize I had brought for Sale; but the Men belonging to the aforesaid Gentleman fell upon me, and broke my Head with the Blow of a Club, and plundered me of my Merchandize. You, Gentlemen, are Rulers. I pray that on an Enquiry I may be ordered Redress.

(Signed) MEER AHMUD ALLEE.

A true Translate,

(Signed) WM. CATOR, *Persian Translator.*

Copy of a Report witnessed, dated the 17th of Schauban, in the 19th Year of the Reign, is as follows.

I SIED ALLEE KHAWN, the Son of *Sied Mokurum Khawn*, Inhabitant of the

the City of *Dacca*, am desirous that those People who are acquainted with and know the Circumstance, shall (agreeably to the Law which says, "a Man called upon in Evidence who conceals any Part of the Truth will have his Heart filled with Darknefs)" witness and confirm, that on *Saturday*, the 17th of *Schauban*, in the 19th Year of the Reign, equal to the 17th of *Affin*, 1184, about Noon, *Doondy*, Jemadar belonging to Mr. *Peat*, unexpectedly came to my House, and in the Dewan Khannah said to *Jaggernaut*, Peishcar to the Phousdarry to the *Sudder* Division of *Dacca*, who was sitting there, "Rise," and set himself before him. How much soever it was asked and said, "What is the Matter or Reason? that if it is a Warrant, it has not Power over a Servant of the Nizamut," not a Syllable was answered; but there came at once a Number of Men with Clubs in their Hands; and on their Arrival the said *Doondy* made a Noise and said, "Seize the Waist of *Jaggernaut*, and take him away." They, seizing the Waist of *Jaggernaut* aforesaid, and taking him away, began beating him, also speaking in Terms of Abuse of the Gentlemen of the Council and Chief of *Dacca*, likewise of the Nabob. They wounded the Centinel, who was stationed with the Phousdar and guarding the Arms House, in the Hand with a Kittar; on which the Sepoy in the Guard seized the Kittar from out his Hand, and kept it himself. After this *Hurry Sing*, Havildar of Sepoys, &c. how much soever he asked of *Doondy's* People and those that were with him, "What is the Matter? What Authority have you? If you have a Note, Letter, or a Warrant, or any Thing with you, shew it." They shew nothing under this Circumstance; how much soever it was said, "In case you say nothing, go to your House; What do you sit for?" they went not; besides Abuse made no Answer. During this more People arrived, in so much that the People of the Phousdarry, seeing the Croud, shut the Gate; on which Bricks and Stones were thrown from without into the House. They plundered the Palanquin House that was on the Outside, also stole the Utensils belonging to the Palanquin, &c. and broke the Palanquin. Some Time after, the above-mentioned Gentleman arrived in a Chair Palanquin; and having broke the Door of the House entered it, and his People began to deal Blows with Clubs, also to plunder. *Sied Mokrum Khawn* my Father, seeing the above Gentleman, rose and went to him, and said, "Forbid your People to make any Dispute. Why do they make an unnecessary Dispute, and what do they want?" During this, the said *Doondy* wounded *Khawn* aforesaid on the Head with the Stroke of a Sword, and the aforesaid Gentleman wounded *Meer Hussain*, the Son-in-law of *Khawn* above-mentioned, with a Ball from a Pistol in his own Hand; and *Mirza Hossain Coolys*, *Shawjowaud Ally*, *Fah-keer*, *Khodadaud*, and *Meer Ahmud Ally*, Merchant, who were on a Visit, were wounded with a Sword, Spear, and Club. After this the People of the above Gentleman dispersed themselves in the House, went into the Houses of the Mutsuddies that were behind the Dewan Khannah, plundered them of every Thing, and went away. Let those who are acquainted with

these Circumstances affix their Names as Witnesses, that God may reward and bless them.

Khajab Sherm Sheeddy, under the Seal of *Meer Seeb*.
Meer Gholam Hossain, under the Seal of *Allee Akbar*, *Mahomed Aukil*.

(Signed as Witnesses by) { *Yasawul*, *Hurry Sing*, *Havildar*, *Meer Muslum Shaw*, *Mokumeen Beg*, *Mahomed Ally*, under the Seal of *Mahomed Hossain*, *Meer Gholam Ally*, *Meer Ahmud Ally*, *Mahomed Hossain*, *Mabustab Khawn*, and under the Seal of *Meer Mahomed Tackee*, *Palwan Sing*.

A true Translate,

(Signed) WILLIAM CATOR, *Persian Translator*.

At the same Time *Jaggernaut* presents himself to the Board, setting forth, That, in the first Place, he has never seen any Warrant pretended to be served upon him: That he meant no disrespect to the Court, nor any way to elude Justice: That he is a Servant of the Phousdarry Court, and ready to answer in the Courts of the Country to any Charge that can be laid against him: That he does not understand the Rules of the English Court, nor is he under its Jurisdiction; and if Security is required for him he will give it: And that in Truth the Behaviour of Mr. Peat's Jemadar towards him arises from private Pique and Resentment, as the Gentlemen will perceive by reading the Representation he now delivers in Writing.

The Representation of JAGGERNAUT.

ON the 17th of *Schauban*, of the Year 19, I was sitting with *Sird Ally Khawn*, employed in transacting the Business of the Phousdarry, when *Doondy*, Jemadar belonging to Mr. Peat, having come to me and set down, said, "Rise." I asked many Questions, such as, "From whence do you come? What have you in your Hand? inform me;" but he paid no Attention to what I said. Besides the Cry of "Rise," and foul Abuse, no Answer was given. After this many People, with Clubs in their Hands, arrived; on which the said *Doondy* made a Noise, and said, "Seize the Waist of *Jaggernaut*, and take him away;" when Four or Five Men seizing me by the Waist and Neck, and taking me out of the Dewan Khannah, they, before those present in the Cutcherry, beat me. And the said *Doondy* said to *Hurry Sing*, the Company's Havildar, "The Person for whom I have come in this Manner is dead. This is now his Dewan; and whoever is sitting on his from them I shall require an Answer." So, because I am a Servant of the Nizamut, and belong to the Nizamut Cutcherry, I am unjustly beat and disgraced. I therefore pray I may, on an Enquiry, be ordered Redress.

(Signed) JAGGERNAUT.

A true Translate,

(Signed) WILLIAM CATOR, *Persian Translator*.

Syed Allee Cawn hearing the above Declaration, mentions to the Board, that when *Doondy Cawn* came to seize *Jaggernaut*, he asked him repeatedly what was his Business? Whether he had any Warrant? Whether he had any Claim? but could obtain no Answer, and he then concluded within his own Mind that there could be no Warrant in the Case; that such was not the Mode in which Processes were served, and that he must therefore have come with a Design to make a Disturbance.

The Phoufdar being asked, Whether he has held his Court since his Arrival from *Moorsheedabad*, he informs the Board, that he did intend to have sat in publick Court Yesterday; but that every Thing now is thrown into a State of Confusion, and he cannot think of going to preside in a Court of Justice, *when he is not safe, even in his own House, from the Officers of the English Court.*

The Phoufdar informs the Board, that he has received Intimation of a large Party of Match-lock Men being stationed in the Road with *Narrain Misser*, the Banian of Mr. Peat, to arrest him when he shall return from Council. That the Council may do all in their Power to prevent further Mischief,

Agreed the following Letter be written to Mr. Peat.

MR. PEAT.—SIR,

JAGGERNAUT Dewah, the Person mentioned in your Letter to the Chief, has this Day surrendered himself to us. He positively denies having seen any Writ of the Supreme Court; so if there was no Arrest there could be no Rescue; nor can we learn, either from himself or from any other Person, what Suit has been instituted against him. Being a Servant of the Nizamur, he denies the Jurisdiction of the Supreme Court, and we apprehend is therein guided by the Orders of his Superiors. He has found us Security, if required, to appear before any of the Country Courts. We, on our Parts, will deposit with you any Sum you shall specify to answer the Demand against him.

A vague Report has this Instant reached us, that a Number of Match-lock Men are stationed in some Part of the City, to seize *Jaggernaut* upon his Return from hence. By the Stations we hold, we consider ourselves bound to take every possible Measure for maintaining the Peace of the City and of the Province; we are accordingly concerned at the Tumult which arose on *Saturday* last, and the unfortunate Consequence which followed. From a sincere Desire to obviate the Possibilities of further Mischief and Bloodshed, we think it necessary to mention to you, that *Jaggernaut* is a principal Servant in the provincial Phoufdarry Adawlur; that the Phoufdar has, at all Times, had a considerable military Force at his Command; and that both the Phoufdarry Officers and this Force are entirely independent of our Authority.

As this Incident will probably give Rise to a Discussion which must publicly decide upon the Jurisdictions of the different Courts, and it would be unfortunate that Individuals should suffer where no Trespas is intended,

and only a publick Question agitated to be decided by higher Powers, we, holding ourselves answerable to produce *Jaggernaut* whenever he may be required, do wish and request that no farther Process may be made, or Measures taken, till both you and we can receive the Orders of our respective Superiors. At present the criminal Jurisdiction of the City is at a Stand.

We request to be favoured with your Answer before the Council breaks up, and whilst the Phousdar is with us.

Dacca, Sept. 22, 1777. We are, &c.

While the Board are preparing this Letter, the following is received from Mr. Peat.

To C. W. BOUGHTON ROUS, Esq;

SIR,

I have Information that *Jaggernaut*, Dewan, is now at your House; it therefore behoves me, as Deputy Sheriff, to request you to deliver him up to me, having been arrested on Process issuing out of the Supreme Court, and rescued on *Saturday* last. I hope, Sir, you will think it right so to do.

I am, &c.

Sept. 22, 1777.

(Signed) SAMUEL PEAT, Deputy Sheriff.

Agreed the foregoing Letter be dispatched to him, and that we reply to his Letter as follows.

MR. PEAT.—SIR,

JUST before we had finished the Letter this Instant dispatched to you, our Chief received your Note, requiring the delivering of *Jaggernaut*. To such, we flatter ourselves, you will find a sufficient Answer anticipated in that Letter.

Dacca, Sept. 22, 1777.

We are, &c.

Hurry Sing, Naigue of the Sepoys detached with the Phousdar, delivers the following verbal Account of what past on *Saturday*.

ON *Saturday*, when I was attending at the House of the Phousdar *Syed Allee Cawn*, Four Persons, whom I did not know, arrived. The Centry asked them, in my Hearing, who they were; they replied, They were *Syed Allee Cawn's* Servants, going to pay their Respects to him. So they went on towards the Cutcherry, at *Syed Allee's* House, where a Noise arose. Presently afterwards, as I was upon Duty there, I went to see what was the Cause. I heard Voices cry out "Murder, murder." I saw those People dragging away *Jaggernaut*. I said to them, "At your Admission you said you were *Syed Allee Cawn's* Servants; it is extraordinary that you should be dragging away his Dewan." I prevented them taking away *Jaggernaut*, and separated Three of the Men. *Syed Alle Cawn* told me not to use Violence, but to let the People go away. They said they would sit down for a little till they were cool, and would go away after drinking a little Water. I brought them
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some Water and a Hooka. They asked me what Battalion I belonged to, whether Captain Cowe's: I said, "Yes, it is very true, and I was detached to attend the Phousdar." They said to me, "*What do we care for the Captain, Chief, or any of you; don't you know we are come with a Warrant from Mr. Peat?*" I desired them to go away, and avoid raising a Dispute. They said, "We will not go away;" and One of them, whom I knew to be *Doondy Cawn*, Jemadar, said, "The Person to whom I owe the Grudge, God has rid me of; but I will not go away till I have the Life of him who has got his Place, and employs his Servants, or till I lose my own Life." I told him he was a great Man to talk in this Manner of taking and giving Lives. During Conversation of this Sort a vast Number of People arrived, 30 or 40 with Clubs and Arms: Upon which *Syed Allee Cawn's* Immautdar fastened the Gate. For a long Time they attempted to break the Gate, but were not able. Afterwards they went round the Wall, which they mounted, and began throwing Bricks. *Syed Allee Cawn* crying out against the Violence of this Attack, retired within the House. Presently *Mr. Peat* arrived with an additional Number of People. The Phousdary Attendants all ran away upon seeing an *Englishman* coming; and a great Effort being made at the Gate, it was burst open; one Part fell upon my Foot, and disabled me.

Being asked at this Time where *Jaggernaut* was, he replies, "He went away with the People at the first Part of the Fray, and does not know what became of him."

Mr. Peat asked me whose Sepoy I was: I told him the Company's Sepoy, and upon Duty with the Phousdar. "Then why do you do such Business as this, and why don't you obey me?" I told him we Soldiers always obey our Captain, and what Duty he orders me upon I do. He is the only *Englishman* from whom I received Orders: I am here to obey the Phousdar. *Moockurram Allee Cawn*, Father of the Phousdar, came from within the House, saluted *Mr. Peat* with a Salâm, and informed him who he was; and remonstrated with him against coming to attack his House and disgracing his Family, but told him he was ready to attend him if he had any Business. *Mr. Peat* replied in *Moors*, "Get away (*Jow Bâânebute*), I don't care for you or your Son either." *Moockurram Allee Cawn* repeated his Remonstrances; but *Mr. Peat* paying no Regard to them, called to his People to attend him.

Being asked in this Part of his Evidence whether nothing past between *Moockurram Allee Cawn* and *Mr. Peat* respecting *Jaggernaut*, he replies, There was no mention of the Name of *Jaggernaut*; only that *Moockurram Allee Cawn* repeatedly said, That this is my House, where I, my Son, and my Family live. *Doondy Cawn* came up, threw down his Turban, told *Mr. Peat*, "Sir, I have taken up your Service, and thus I am exposed to Disgrace." *Mr. Peat* said nothing in Answer, but made a Motion with his Arm; immediately upon which *Doondy Cawn* with the People began pushing

pushing and beating *Moockurram Allee Cawn*, and *Doondy* ran to a distant Part of the Inclosure, where a Servant of *Moockurram Allee Cawn* was standing with a Sword in his Hand, and snatched it away from him, and came and struck *Moockurram Allee Cawn* with it upon the Head. Blood immediately issued, and *Moockurram Allee Cawn* fell down. His Son-in-law, when he saw this, ran out from the House bearing his Breast, crying out, "They have killed my Father." Mr. *Peat* asked who he was. *Doondy* said it was somebody belonging to *Moockurram Allee Cawn*. Mr. *Peat* then put one Hand behind him with a Pistol in it, and called out at the same Time to his People to bring his Palanquin. *Moockurram Allee Cawn* was down, his Servants began to seize upon *Doondy*, when the Pistol was discharged, and *Moockurram Allee Cawn's* Son-in-law received the Ball in his Belly.

Question. Had *Meer Hussain* any Arms with him?

Answer. I saw none.

Question. Did you see any Body attempt to strike Mr. *Peat* with a Weapon?

Answer. I was near to Mr. *Peat* the whole Time. I saw no body attempt to strike him. I could not have stood by, if such Attempts had been made upon an *English* Gentleman, without defending him.

Question. Did Mr. *Peat* fire the Pistol whilst his Hand was behind his Back?

Answer. He was near the Door beckoning very eagerly to the People of his Palanquin with one Hand, whilst his Pistol was behind his Back in the other, and in that Position he discharged it.—He proceeds. Mr. *Peat* immediately got his Palanquin, and went off. *Doondy Cawn's* Party began plundering the Out-houses. I asked *Syed Alle Cawn* for his Orders. He told me and my Sepoy not to attempt any Violence, but to remain quiet Spectators of what passed, that we might afterwards bear Witness to it, and he hoped he should have Justice done him.

Question. Did you see any Sword drawn during the Whole of the Dispute?

Answer. I did not see any myself. I remained all the Time close to Mr. *Peat*.

The Board having sat till Four o'Clock, and no Answer being received from Mr. *Peat*, agreed to adjourn.

Five o'Clock.—A Board being again assembled, composed of the Chief, Mr. *Shakespear*, and Mr. *Holland*,

Read the following Answer Mr. *Peat* has written to their Letter.

To CHARLES WILLIAM BOUGHTON ROUS, JOHN HOGARTH,
JOHN SHAKESPEAR, and WILLIAM HOLLOND, Esquires,
Members of the Provincial Council of Dacca.

GENTLEMEN,

I HAVE been favoured with your Two Letters; and as you request an Answer, I beg Leave to acquaint you that I have not the least Doubt that the

the legal Arrest of *Jaggernaut* Dewan, and also his contemptuous tearing the Writ which authorized that Arrest, and the Rescue which was effected afterwards, notwithstanding all my Efforts to prevent it, will all be fully and satisfactorily proved at a proper Time and Place.

If *Jaggernaut* Dewan was not thought an Object of the Jurisdiction of the Supreme Court by the Judge of the Court who ordered the Writ to issue against him, the Order for issuing the Writ would not have been given, nor could the Writ issue; and the resisting or consenting to Resistance being made to the Execution of the Process issued out of His Majesty's Court, is an Offence of a very high Nature. I cannot accept of any other Security than what the Writ authorizes me to take, which in this Case must be by the Bond of the Defendant himself, and Two other responsible Persons, in the Sum of 10,000 Rupees. The Action is not for Debt, it is for an enormous personal Wrong. It is the Duty of the Sheriff to execute the Process of the Court, whether such Process is right or not; and if the Defendant is not in the Jurisdiction of the Court he should plead it, and not resist the Execution of the Process, or endeavour to escape. I know nothing of any armed Men being placed in any Part of the City for any Purpose whatsoever; and I beg Leave to assure the Board that I have not, nor shall I take any Steps or adopt any Measures, in executing any Part of the Business incumbent upon me in my Station to transact, but what I know to be lawful and right; and further I beg Leave to acquaint the Board, that in case at any Time it should be proper to request their Assistance in executing any Process from the Court, the surest Way to preserve the Peace of this City (which the Board expresses itself so much concerned for) will be, I presume, to grant such Assistance without Delay; and as the Military Force under the Phousdar are the Forces of the Company, the Gentlemen at the Board will I hope think proper to acquaint the Phousdar that such Military Force should not be employed in resisting legal Authority, as they very improperly did on *Saturday* last, during the Rescue of *Jaggernaut* Dewan.

Dacca,

I am, &c.

Sept. 22, 1777.

(Signed) S. PEAT, Sheriff's Deputy.

JAGGERNAUT being called in, the First Paragraph of Mr. Peat's Letter is explained to him, and he is likewise informed that the Consequence of such Proceedings may be very serious to him, if he should hereafter upon a regular Hearing be found liable to the Jurisdiction of the Supreme Court; and whether he be liable or not, the tearing of a Writ issued in the Name of the King of *Great Britain* would at least be disrespectful, and he ought to have submitted himself to the Orders of the Provincial Phousdar, or those of the *Naib* Subah, without proceeding to such indecent Violence.—He replies with Affeavation, that he never saw the Writ, that he knows not the Subject of the Complaint, nor the Person complaining against him: On the

contrary, that *Doondy Cawn* was repeatedly desired to produce his Warrant, if he possessed any, and he never did; but endeavoured to drag him away to Mr. *Peat's* House. That he can safely swear to the Truth of what he now advances, and will stand to the Consequences.

The Board remark, upon Mr. *Peat's* Intimations about keeping the Peace of the City, that if Mr. *Peat*, in Quality of Sheriff's Deputy, had condescended to apply to the Chief for his Interposition when he had Notice that his Bailiff was opposed in the Execution of the King's Writ, *instead of going with a Rabble of his own to break open the Mansion of the first Magistrate in the Province*, the desired Effect must in all Probability have been obtained, and Blood had not been shed.

Agreed the following Letter be written to Mr. *Peat*.

To Mr. PEAT.—SIR,
JAGGERNAUT being apprized of the first Paragraph of your Letter, which has just reached us, persists in declaring that he never once touched or saw the Warrant, nor knows who is the Complainant against him, nor the Subject of the Complaint, and is ready to make Affidavit to that Effect before yourself, if you require it: He therefore denies the Arrest. Nevertheless, if you will furnish him an authenticated Copy of the Writ actually issued against him, he will provide the Surety required; however reserving to himself the Power of pleading to the Jurisdiction before any Hearing of the Charges to be laid against him.

Dacca, September the 21st, 1777. We are, &c.

Read the following Reply from Mr. *Peat*.

To CHARLES WILLIAM BOUGHTON ROUS, JOHN HOGARTH,
JOHN SHAKESPEAR, and WILLIAM HOLLOND, Esquires,
Members of the Provincial Council at Dacca.

GENTLEMEN,
I AM this Instant favoured with your Letter dated Half past Four o'Clock, September the 21st, 1777, (which I presume is a Mistake of one Day, this being the 22d of September). In regard to what *Jaggernaut* says about never seeing the Warrant, I do not think it right to take any Notice, being convinced of the Legality of the Arrest; and his requesting to have another Copy of the Writ served is a Piece of Chicanery, which I am sure you, Gentlemen, do not expect me to acquiesce in.

September 22, I am, &c.
Half past 5 o'Clock. (Signed) S. PEAT, Sheriff Deputy.

The Board remark with infinite Concern, that no satisfactory Accommodation is likely to be obtained by protracting a Correspondence with Mr. *Peat*; and lament that he should, in so important a Crisis, reject a Proposition which tends to prevent farther Disputes or Tumults; and that if the Phoufadar should think it his Duty to be equally pertinacious in supporting the Jurisdiction

Jurisdiction of his own Court, the Consequences may be dreadful. The Board in this Case, considering themselves on the one Hand as holding the Administration and Protection of the Province, and on the other, as owing the highest Obedience and Veneration to His Majesty's Court,

RESOLVE, as the most effectual Mode which occurs to them of preserving Tranquillity, to depute Two of their own Members to attend the Deputy Sheriff, and act ultimately as they shall judge most expedient upon the following Grounds and Informations:

First, They will require to be informed positively from Mr. Peat, whether he will pursue the Process, if Bail is not given.

2dly, To know whether Mr. Peat means by his Letter to the Board, a Refusal to take Jaggernaut's Affidavit that he never saw the Warrant, or is acquainted with the Name of the Complainant.

3dly, Whether he will accept such Bail from Jaggernaut as may exempt him from any further Pursuit of the Sheriff's Officers, and yet allow him to reserve to himself a Denial of the Arrest being legally made, and a full Plea against the Jurisdiction of the Court. In short, what are the only Terms he will accept.

If Mr. Peat refuses any other than unconditional Bail, then to send for Jaggernaut to Mr. Peat's House, to require of Mr. Peat, as Master on the Equity Side of the Court, to receive his Affidavit; and should Mr. Peat, in Quality of Deputy Sheriff, make him his Prisoner, instantly sign to any Bail Mr. Peat shall demand, declaring to him at the same Time that neither the Arrest nor Jurisdiction is acknowledged, protesting verbally against him for all Costs and Damages whatsoever to every Party concerned.

Agreed, Mr. Shakespear and Mr. Hollond be the Members deputed.

Mr. Shakespear and Mr. Hollond being returned from Mr. Peat's, now deliver in the following Paper of Questions and Answers which passed between them and Mr. Peat, and were committed to Writing upon the Spot.

1st, The Council request to know positively from Mr. Peat, whether he will pursue the Process, if Bail is not given?

Answer. I cannot positively say; if I could take him without Resistance I should think it my Duty.

2dly, The Council request to know whether Mr. Peat means by his Letter to them, a Refusal to take Jaggernaut's Affidavit that he never saw the Warrant, or is acquainted with the Name of the Complainant.

Answer. I refuse, because I am a Party very materially concerned; next, because I think he would be swearing to a Falsehood if he denied the Arrest, being convinced that the Arrest was legally made.

3dly, The Council request to be informed whether Mr. Peat thinks he can legally refuse the Affidavit as a Master Extraordinary in Chancery?

Answer. I think I can, for the Reasons above assigned.

4thly, The Council request to know from Mr. Peat whether he will accept such Bail for Jaggernaut, as may exempt him from any further Pursuit

of the Sheriff's Officers upon the present Process, and yet allow him to reserve to himself a Denial of the Arrest being made, and a full Plea against the Jurisdiction of the Supreme Court.

Answer. I will take Bail in the common Way, as authorised by the Writ. The Defendant may of Course plead to the Jurisdiction if he chuses; and if he objects to the Arrest, he of Course also has his Remedy, without any such Reservation being made in the Bond.

5thly, In short, what are the Terms on which Mr. Peat will accept Bail?

Answer. As I have before said, in the Manner I am authorised by the Writ.

Messieurs *Shakespeare* and *Holland* next report, that finding Mr. Peat would not receive Bail with any Reservation to *Jaggernaut*, and evaded giving them a positive Assurance not to pursue *Jaggernaut* upon the present Process, they sent for *Jaggernaut*. On *Jaggernaut's* Arrival, he required of Mr. Peat to receive his Affidavit, That he never saw the Writ, that he is to this Hour unacquainted with the Nature of the Complaint, or the Name of the Person complaining against him.

This being explained to Mr. Peat, he desired Mr. *Berrie* his Writer to interpret to *Jaggernaut*, "That he would not receive his Affidavit; that he himself was a Party concerned; and that, being convinced the Writ had been legally served, he would not receive his Affidavit, because he was sure he (*Jaggernaut*) would perjure himself."

Messieurs *Shakespeare* and *Holland* further report, That they then required to know what Bail must be given, demanding to see the Writ, or a Copy thereof.

Mr. Peat said he had no Copy, and the original Writ was torn by *Jaggernaut*: That Mr. Peat then turned to his Book, wherein it was inserted to the best of their Recollection as follows:

<i>Khyrao</i>	} versus {	<i>Jaggernaut</i>	} For Trespass and false	} Bail Ten thousand
<i>Pyke,</i>		<i>Dewan,</i>		
		<i>Peat and</i>	} Attornies. }	
		<i>Wroughton,</i>		

The Bail Bond being prepared (after Messieurs *Shakespeare* and *Holland* had ineffectually made a Tender of depositing the Amount in Cash) *Jaggernaut* being told to sign first, taking the Pen in his Hand said, "I sign this Security to prevent Disturbance; but, as a Servant of the Nizamut, I disallow the Jurisdiction of the English Court; and I deny having seen any Writ, or knowing till the present who was the Complainant, or what was the Cause of Complaint."

Messieurs *Shakespeare* and *Holland* having also executed the Bail Bond took their Leave, *Jaggernaut* being allowed to depart with them; Mr. Peat saying to his Servants, "You are to permit him to go; he is not now to be molested."

Ordered, Copy of the Protest which shall be executed be entered in this Place.

PROTEST. Whereas it has been declared, That a Writ of the Supreme Court of Judicature of *Fort William* in *Bengal* was lawfully and regularly served upon me *Jaggernaut*, Dewan of the Court of the Provincial Phouddar of *Dacca*, on *Saturday* the 20th of *September*, 1777; that I was accordingly arrested in Manner agreeable to the Forms and Rules required by the Laws of *England*; and that I did treat the said Writ with Contempt in tearing the same; and that I did by Violence break from the said Arrest, and effect a Rescue: And whereas Mr. *Samuel Peat*, acting in Quality of Sheriff's Deputy, did in consequence demand me for his Prisoner, which might subject me to great Trouble and Disgrace, or might expose my Life to Danger if I should refuse to submit, as one Person has already been shot by him: Now seeing that, as Dewan to the Provincial Phouddar, I am a Servant of the Nizamut, and the Servants of the Nizamut are not held liable to the Jurisdiction of the said Supreme Court of Judicature, and that I do deny I ever tore the Writ of the Supreme Court aforesaid, or ever saw it, or knew what Person had complained against me, or what was the Cause of Suit; and did therefore go to the House of the said *Samuel Peat* on *Monday* the 22d Day of *September*, 1777, as to a Person publickly and notoriously in the Practice of administering Affidavits, which can be exhibited and held valid in the said Court, requiring he should receive my Oath that I never tore or saw the Writ, or knew the Name of the Plaintiff, or the Subject of the Suit, and he did positively refuse to administer the same, demanding from me a Surety of 10,000 C. Rupees, and Surety was accordingly given in the Sum of 10,000 C. Rupees, that I should appear in the said Supreme Court on or before the 22d Day of *October* ensuing, to answer to the Suit of *Khyroo Pyke*, and did then and not before instruct his Servants that I might go away without Molestation:

Be it therefore known that I do, on the Part of myself, and on Behalf of the Nizamut, deny and disallow the Jurisdiction of the said Supreme Court, and do protest against the said *Samuel Peat* for all Injuries, Cost and Damages, which may hereafter accrue to any of the Parties concerned, by reason of his several Acts and Deeds done in the Premises. Dated at *Dacca*, the 23d Day of *September*, One thousand seven hundred and seventy-seven *Christian* Year.

Agreed we now address the Honourable Governor General and Council as follows, with a complete Copy of the foregoing.

To the Honourable WARREN HASTINGS, Esquire, Governor General,
and Council, Fort William.

HONOURABLE SIR, and GENTLEMEN,

WE have now the Honour to enclose you several Representations made to us relative to the late unfortunate Fray. You will observe by our Proceedings that, from an anxious Desire to prevent further Disturbance, we were at length necessitated to become Bail to Mr. *Peat* for *Jaggernaut* Dewan.

Dewan. When the Motive which dictated this Resolution is considered, we shall hope to stand excused to your Honourable Board from being aiding or assisting in the Relinquishment of any of the Rights or Privileges of the Nizamut. *Jaggernaut* had delivered himself up to us, and we were of Opinion it was most adviseable for him temporarily to acquiesce by giving Bail, under a Denial of the Jurisdiction, and a Protest against Mr. *Peat* for all Consequences, Loss, and Damages, to himself and all others concerned. *Jaggernaut* by this Bail is bound to appear before the Supreme Court on the 22d Day of *October* next, to answer to the Suit of *Kbyroo* Hircarrah, for a Trespass and false Imprisonment, under the Penalty of Ten thousand Rupees. We therefore hope that the Company's Counsel will be instructed to pursue such Measures as shall prevent the Forfeiture.

We take this Occasion to notice a very important Circumstance on the present Discussion, that Mr. *Peat* has been acting contrary to Law during the whole Time of his Residence at *Dacca*, by holding a very active Practice as Attorney at Law, proved by his original Letters already sent you, and at the same Time acting as Deputy Sheriff; contrary to a Statute of *Henry V.* which enacts, that "an Under Sheriff cannot execute that Office, and practise as an Attorney at the same Time." The Reasons assigned for which are, That it would be a Cause of increasing Suits, a Temptation to Partiality, and an Hinderance in the Dispatch of his proper Business.

We beg it may be considered, whether this does not afford sufficient Grounds to have the Court moved for an Injunction. Mr. *Peat's* threefold Capacity of Master in Chancery, Attorney, and Deputy Sheriff, in a Situation so far removed from the Supreme Court, gives him an Influence and Advantage in the Suits he engages in, and leaves little Chance of Equality to the poor Native against whom he may be employed.

In respect to the present Matter, we must observe, that *Jaggernaut* himself, *Syed Allee Cawn* the Phousdar, and every other Person present, who have appeared before our Board, persist in affirming that no Writ or Warrant whatever was shewn to them; and we believe it to be an established Rule in Arrests at the Suit of the Subject, that the Sheriff's Officer is to shew at whose Suit it is, and out of what Court the Writ issues, and for what Causes; or otherwise the Arrest be made by the Sheriff's sworn Bailiff, whose Powers and Authorities shall be known to the Prisoner. Much may depend upon this; because, if the Arrest is not effectively made, there can be no Rescue.

Should the Officers of the Nizamut suffer for the present Transaction, it would doubtless be a very great Hardship: For *Syed Allee Cawn* the Phousdar produced to us a Letter from the *Naib Subah Mahomed Reza Cawn*, informing him that no Warrants or Writs could operate upon the Officers of the Nizamut: That this was the Answer to be given to the Officers of the Court; and if they should still be unsatisfied, they should be referred to him, *Mahomed Reza Cawn*, for a further Reply. You see therefore, Gentlemen, in what

what a Predicament they stand, if the Court takes an Offence upon their making the Reply dictated by their immediate Superior in Office.

Since we learnt last Night the Nature of the Suit, and the Name of the Complainant, we have been at Pains to trace the Offence laid to the Charge of *Jaggernaut*. What we have learnt is as follows :

That Complaints were made against *Kbyroo*, a Pykar, for some Misdemeanour, on which he was arrested by the Phoufdarry Court; and upon regular Conviction and Decree of that Court, was confined, and obliged to make Restitution.

In July last a *Habeas Corpus* was issued for the Removal of this *Kyroo* from the Custody of *Baudub Sing*, a *Hircarrah* belonging to the Court. *Baudub Sing* it seems denied having him in Charge, and the *Habeas Corpus* was returned. In the mean Time the *Naib Subah* expedited an Order to the *Phoufdarry*, requiring that *Kbyroo* should be sent Prisoner to him, to answer to some Complaint exhibited at his Tribunal. *Kbyroo* was accordingly sent to the *Naib Subah* at *Moorsbedabad*; and it is conjectured he made his Escape from thence to *Calcutta*, where he has laid his Suit against *Jaggernaut*. Mr. *Peat* did before apply to *Jaggernaut*, as *Attorney at Law* for the Plaintiff, demanding his Release, or threatening him with a Suit. To which *Jaggernaut* made Reply, that *Kbyroo* was not in his Custody, but sent to the Nabob *Mahomed Reza Cawn* by his Order, &c. as above; so that Mr. *Peat* is *Attorney* in this very Suit. Mr. *Peat*, you will observe, was taken into Custody by his own Request. At the same Time we think it our Duty, whilst the Man's Life is in Danger, to prevent his Escape; but we must beg your immediate Direction what Conduct to observe, as well in case the Man should die, as if he should be declared out of Danger. The latest Accounts were extremely unfavourable; and although the Ball has been extracted, there is Reason to apprehend the worst, as it must necessarily have passed through the Intestines, to be found in the Part where it has been extracted.

You will be pleased to remark, Gentlemen, that we have taken no Part in this Transaction, but that of sending a Reinforcement to the Phoulsdar to keep the Peace of the City after the Fray had happened, taking Mr. *Peas* into Custody, at his own Request, and giving Bail for *Jaggernaut*.

We cannot omit to observe in this Place, that the Suit against the Zemindar mentioned in our Letter of the 18th to be confined by Mr. Peat, in Quality of Deputy Sheriff, is actually prosecuted by Mr. Peat as Attorney at Law, which appears by the original Note forwarded to you with that Letter.

It is fitting we should point out to your Notice, that all criminal Justice is at a Stand, and seems not likely to be resumed until the decisive Consequence of the present Disputes shall be publicly declared and known. It touches to the very Existence of Government throughout the Province, that the Jurisdiction of the Phoufdar, and his Superior the *Najib Subah*, be admitted free from all Doubt or Ambiguity: How, otherwise, can it be sup-

posed a Phousdar will perform any Function of his Office, how presume to execute a Criminal convicted, and sentenced to Death by the established Laws of the Government and his Religion, if he is liable himself to stand to Actions of Damages, as in the present Suit against the Dewan, or to answer to a criminal Accusation, for any Punishment he may inflict, before the Supreme Court of Judicature, whose Judges are bound by their Oaths to judge according to the Laws of *England*? The penal System of *Mabomedan* Jurisprudence admits of Punishments not known to the Laws of our own Country, or known to them only as the Description of Offences, which may be capitally punished. Paint to yourselves, Gentlemen, the Anarchy and Distraction which may arise, if the present Uncertainties are not effectually removed.

Dacca, Sept. 22,
1777.

We are,
(Signed) C. W. B. Rous, &c. and Council.

Extract of the Proceedings of the Dacca Provincial Council, dated the 25th of September, 1777.

READ the following Petition from *Jaggernaut* Dewan.

The Arzee of JAGGERNAUT.

ON a false Representation of *Doondy*, Jemautdar to Mr. *Peat*, of a Charge for Non-obedience to a Warrant, Bail was taken from me for my Appearance, notwithstanding my being a Servant of the Nizamut. The Particulars are these: The said *Doondy*, not shewing me the Warrant, or making known the Complaint or the Subject, unjustly, on a false Charge, distressed and ruined me. I hold it my Intention to go to *Calcutta*. I pray from you, Gentlemen, a Letter to the Gentlemen of the Council there, that I may by the Means of it go there; and having pleaded, may be released from this false Charge.

(Signed) JAGGERNAUT.

A true Translate,

(Signed) WILLIAM CATOR, *Persian* Translator.

Question to Jaggernaut. Why do you want to go to *Calcutta*?
He replies, To bear hand to receive any Orders from the Nabob *Mabomed Reza Cawn*, or to answer any Questions the Gentlemen of the Council may have to put to him. He solicits the Board for an Advance of 200 *Sicca* Rupees. Ordered the Dewan to advance him this Amount, deducting his Allowance of 50 Rupees per Month, in the Payments made upon Orders of the *Naib Subah*, for the succeeding Four Months.

As the Presence of *Jaggernaut* may become necessary at *Calcutta*, and it will be convenient for him to be in a Situation of receiving more expeditiously the Orders of his immediate Superior the *Naib Subah*,

The

The Board approve of his Intention.
Ordered, the Secretary do deliver the following Letter to *Jaggernaut*, addressed to Mr. *Sumner*.

To Mr. RICHARD SUMNER.

SIR,

THE Bearer's Name is *Jaggernaut*, Dewan to the Provincial Phousdar of the *Dacca* Division. He is furnished with this Introduction to you, that he may be at hand, in case the Governor General and Council are desirous of putting any Questions to him.

Dacca, Sept. 25, 1777. I am, &c.

Agreed, we inform the Honourable Governor General, and Council of Revenue, of *Jaggernaut's* Intention to proceed to the Presidency.

To the Honourable WARREN HASTINGS, Esq; Governor General, and Council of Revenue, Fort William.

HONOURABLE SIR, and GENTLEMEN,

JAGGERNAUT, Dewan to the Provincial Phousdar of the *Dacca* Division, has this Day informed us of his Intention to proceed to *Calcutta*, that he may be at hand to receive any Orders from his Superior the *Naib* Subah; and also that he may be upon the Spot, in case your Honourable Board should find it necessary to put any Questions to him.—We have furnished him with a Letter of Introduction, to be delivered to the Secretary of the Revenue Department upon his Arrival.

Dacca, Sept. 25, 1777. We are, &c.

Extract of the Proceedings of the Dacca Provincial Council, dated the 26th of September, 1777.

READ the following Letter and Inclosure from Lieutenant *Cowe*.

To CHARLES WILLIAM BOUGHTON ROUS, Esq; Chief, and Council of *Dacca*.

GENTLEMEN,

THE accompanying Letter relative to the Affair between *Jaggernaut* and Mr. *Peat*, I have received this Day from Mr. Justice *Hyde*, and now send it for your Perusal.

Dacca, Sept. 26, 1777. I am, &c.

(See this Letter stated before in Page 14 of the *Observations*.)

Agreed, we transmit them to the Honourable Governor General and Council, with the following Address.

To the Honourable WARREN HASTINGS, Esq; Governor General, and Council.

HONOURABLE SIR, and GENTLEMEN,

WE beg Leave to lay before you the inclosed Papers,—These will suggest to you, Gentlemen, of what serious Importance it is to us and to the commanding Officer to be furnished with the most explicit Directions how to conduct ourselves so as to answer your Expectations, without either concurring in a Surrender of the Rights you may judge inherent in the Phousdarry Court, or on the other Hand laying ourselves open to the Displeasure of the Supreme Court.

As our Situation is difficult, we hope to have your Orders without Loss of Time.

Upon formal Application to the Surgeon To-day, he replied, that he could not yet declare *Meer Hossain Allee* to be out of Danger, the Inflammation and Fever still continuing;—but that he was much better.

Mr. Peat has not yet required to have the Guard removed.

Dacca, Sept. 26, 1777.

We are, &c.

The Chief lays before the Board the following Letter from the Phousdar *Syed Allee Khaun*.

Translation of a Letter from SYED ALLEE KHAUN, Provincial Phousdar, to the Chief, received September 25, 1777.

YOUR Letter which acquaints me that the Slaves of *Mahomed Fatier*, the Son of *Mahmud Nazir*, Chowdry of a Division of *Purgumab Turrupb*, have murdered *Mahmud Fatier*, with his Mother, as also *Rambuddar Gomas-tah*, and the Brother of *Rambuddar*, and have absconded, that I might depute the Phousdarry People in order to apprehend the said Slaves, has arrived, and the Purport is understood. Do you yourself decide, Sir, when the Phousdarry is reduced to such a Pass, that *Doondy*, Mr. Peat's Jematdar, can through Malice, and without setting forth his Business, disgrace and dishonour the Peshcar of the Phousdarry; and that the said Gentleman shall, without Enquiry and Examination, come with his People to my House, who am called Phousdar, and break open the Door of my House; that the Jematdar shall cut my Father on the Head with a Sword, and the said Gentleman wound my Brother with a Ball from a Pistol. How is it possible for me to enter upon the Functions of the Phousdarry, if all this has befallen me, notwithstanding my being free of Fault, and my having not yet issued any Order from the Phousdarry? Most undoubtedly, in the conducting the Business, Complaints just or unjust may be preferred; in which Case, should a Warrant come against me, it may probably be with Difficulty that I preserve my own Life. It is in the Hope of Favour and Protection and Preferment, that my faithful Services have ever been at Command, not expecting that the Reward for Service should be such as I now experience: And as to the future, until I am satisfied in this Point, I cannot discharge

discharge my Functions. The Gentlemen are Rulers. I write this for Information.

Under the Seal of SYED ALLEE KHAN.

A true Translate,

(Signed) WILLIAM CATOR, *Perhan* Translator.

Agreed, Copy thereof be transmitted to the Honourable Governor General, and Council of Revenue, with the following Letter.

To the Honourable WARREN HASTINGS, Esquire, Governor General, and Council of Revenue, Fort William.

HONOURABLE SIR, and SIRs,

YESTERDAY, Information was brought to us of the Murder of various Persons in the Purgunnah of *Turruff*, by an Insurrection of the Nuffera, or hereditary Slaves of the Zemindar; and Notice being given to the Phousdar, he declined taking any Measures for apprehending the Murderers.

We find ourselves wholly at a Loss how to act; and therefore transmit his Letter, requesting to be favoured with your Instructions, or that such Directions should be sent to the Phousdar as may induce him to resume the Functions of his Office.

Dacca, Sept. 26, 1777.

We are, &c.

Extract of the Proceedings of the Dacca Provincial Council, dated the 27th of September, 1777.

READ the following Letter this instant received from the Honourable Governor General and Council.

To Mr. CHARLES WILLIAM BOUGHTON ROUS, Chief, &c. Provincial Council of Revenue,—at Dacca.

GENTLEMEN,

WE have received your Letter of the 20th Instant, with the Papers accompanying it.

We very much approve of the Steps you have taken in this Affair.—We direct that you cause the Warrant to be duly executed on *Jaggernaut* Dewan, offering the Sheriff's Officer all the Assistance which may be required for that Purpose. That the Party of Sepoys which you have stationed over Mr. *Peat*'s House be continued there, for the Purposes mentioned in your Letter, for so long a Time as the wounded Man shall be in Danger from the Wounds which he has received: That, in case of the Death of the wounded Man, you cause Mr. *Peat* to be sent under a Guard to the Presidency,

idency, together with all the Persons concerned in the late Fray, that on their Arrival here they may be carried before a proper Magistrate in order to be bound over to take their Trial; that you make Enquiry concerning the Persons who were present when this Affair happened; that you call them before you, or before any individual Member of your Board, and take their Depositions in Writing, which you will transmit to us, and send the same Persons as Witnesses under a proper Custody to the Presidency, at the same Time with the Parties immediately concerned: That you make particular Enquiry whether *Jaggernaut* was a Party or any way concerned in the Fray; that in such Case, or if he shall be charged with having been a Party in it, he be sent likewise under a Guard to the Presidency, to be carried before the proper Magistrate.

Fort William,

We are, &c.

Sept. 24, 1777.

(Signed) WARREN HASTINGS, &c.

The Board observe that *Jaggernaut* having surrendered himself to Mr. *Peat* the Sheriff's Officer, and he having accepted his Bail, any Offer of Assistance on their Part is now superfluous; especially as they are yet uninformed of any new Process being issued, and *Jaggernaut* has left *Dacca* some Days since.

The Chief is requested to issue Directions to Lieutenant *Cowe*, that the Party of Sepoys stationed over Mr. *Peat* be continued there till further Orders.

As the Town is now quiet, the Chief is requested to remand the Reinforcement ordered to the Phoufdar on the 20th, for the Preservation of the Peace of the City.

Agreed, the Chief do write to the Phoufdar, desiring he will furnish him with a List of all such Persons as were present at the Fray, and can be found, in order that their Depositions may be taken by the Board on Monday; and in the mean Time, that Messrs. *Shakespear* and *Holland* be deputed to take the Depositions of *Mier Hossain* and the other wounded Persons, who may thereby be disabled from attending the Board.

Agreed, we write to the Honourable Governor General and Council as follows.

To the Honourable WARREN HASTINGS, Esquire, Governor General, and Council, — Fort William.

HONOURABLE SIR, and GENTLEMEN,

WE have been honoured with your Commands of the 24th, and are happy that our Conduct meets your Approval.

We shall without Loss of Time comply with your Orders for taking the Depositions of the several Persons present at the Fray. As to any Offer of Assistance to the Sheriff's Officer for the Apprehension of *Jaggernaut*, his Surrender, and the Acceptance of Bail by Mr. *Peat* the Sheriff's Deputy, renders

renders it superfluous; and should even a new Process issue against *Jaggernaut*, and Mr. *Peat* require our Aid, it will be now of no Avail, as you will find from our former Advices that *Jaggernaut*, after having given Bail, left *Dacca* some Days ago.

Dacca, Sept. 27, 1777.

We are, &c.

Extract of the Proceedings of the Dacca Provincial Council, dated the 29th of September, 1777.

MESSIEURS *John Shakespear* and *William Hollond* now lay before the Board the Depositions taken on *Saturday* Night last, in Consequence of the Orders of the Honourable Governor General and Council.

Messieurs *Shakespear* and *Hollond* being arrived at the House of *Syed Allee Cawn*, the Provincial Phousdar, at about Half past Eight o'Clock in the Evening of *Saturday* the 27th of *September*, 1777, proceed to take the following Depositions.

Meer Hossain Allee, being duly sworn upon the *Koran*, according to the Custom of his Religion, deposes as follows:—On *Saturday*, the 17th *Schaubau*, in the 1191 Year of the *Hygeira*, (answering to *September* 20, 1777), in the Afternoon, I was in the inner Apartments, and heard there was a Fray. I then went out into the outer Apartments. I saw *Doondy* sitting in the Compound; I went and sat by *Syed Allee Cawn* the Phousdar. *Doondy* was told repeatedly to depart; why did he sit there? He refused. *Syed Allee Cawn* had the Door shut: Soon after, *Doondy's* People without made a Noise at the outer Door, attempting to break it open; scaled the Walls, and began throwing Bricks into the open Hall where *Syed Allee Cawn* was sitting, which wounded some of the People who were standing there; every Body desired *Syed Allee Cawn* to remove himself out of the Way of the Bricks: He went into the other Room. I was standing there near him, with my Father and about 25 People, Servants and others: About two Ghurries afterwards, I heard that a Gentleman (whose Name I have since learnt is Mr. *Peat*,) was arrived. *Syed Allee Cawn* sent to call us his Friends who were in the outer Room, desiring us to come from thence, lest a Quarrel should ensue. I, with *Moockurram Allee Cawn* my Father-in-law, *Khodadaut Kbaun*, and others, were standing in the outer Room; some went, but *Moockurram Allee Cawn*, *Shahjowaud Allee*, and *Khoda Kbaun*, and *Meer Abmud Allee*, some of the Servants, and I, remained there. Mr. *Peat* soon after arrived; he broke the Door open, and it fell down. Mr. *Peat* entered, with a Number of People armed with Sticks and Bricks, Tulwars, Pikes, Spears, *Hircarrahs's* Sticks armed at the Points, and beating and striking every Body as they passed on. Seeing this, I was apprehensive they might

might proceed on to the *Zenana**; I therefore resolved to go and guard that Passage, and, if they came there, to sacrifice my own Life, or stop them. I took my Stand in the Passage which leads to the *Zenana*, and therefore saw not who was beat or wounded without. I heard somebody crying from without, "They are seizing and carrying away *Khodadaud Kawn* and *Shah-jowaud Allee*." I went to look out upon this; I saw Mr. *Peat*, in the Middle of the Compound, and *Moockurram Allee Kbaun*, my Father-in-law, proceeding forward to receive him in a friendly Manner. When he got near him, Mr. *Peat* stopt; they seemed to be conversing, when I saw *Doondy* run to *Bekab*, *Moockurram Allee Kbaun's* Kermutgar, who was holding his Master's *Syef* (or long Sword,) give him a Blow with his Hand, snatch the Sword from him, and run up to *Moockurram Allee Kbaun*, my Father-in-law, and strike him over the Head; he cut his Head; the Blood issued from it; *Moockurram Allee Kbaun* put his Head on one Side. Two or Three Blows were besides given him with Sticks from some unknown Hand, and at Length he fell. Seeing this, I ran to the Place, with a View of saving my Father. I had in my Hand a *Tulwar*, but it was then sheathed. Seeing me run up, I was surrounded by a Number of People; in the Struggle, some of the Mob laid hold of the End of the *Tulwar* to wrench it from me. I kept my Hold, and the Sheath was of Course drawn off. Both my Arms were confined by this Time by many of the People. Mr. *Peat* fired a Pistol; the Ball struck me in the Belly, and I fell; a Giddiness having seized me immediately. Many People rushed upon me, and when down I felt many very severe Blows with Sticks, upon my Shoulders, Arms, Back, Legs, and every Part of my Body, of which I still retain the Marks.—(He shews very severe Bruises upon his Back, Shoulders, and Knee, covered with Dressing.)

Deposition of MOOCKURRAM ALLEE CAWN.

Moockurram Allee Cawn, being duly sworn upon the *Koran*, deposes: On Saturday, the 17th of the Month *Shawbaun*, in the Year of the *Hygeira* 1191, in the 19th Year of the King *Shaw Allum's* Reign, from about Nine o'Clock in the Morning till Twelve, I had been sitting with my Son in the open Hall, who was transacting various Businesses belonging to his Office, hearing Representations, and giving Answers, and so on; about that Time *Doondy* came, and with him Two other Persons. He said to *Jaggernaut*, taking him by the Commerband, "Get up, get up." I asked, and *Syed Allee Cawn* also asked, whether he had brought any Warrant or Feebh.

(On being asked what he means by *Feebh*? explains it by repeating *Feebh* or *Fees*; and further, that the Papers coming from *Calcutta*, served through Mr. *Peat*, are called throughout the City, *Warrants*; Mr. *Peat's* own Notes are called *Feebh*. I know what a Warrant is by the Seal, for I have had one served upon me before, and I was carried before Lord *Impey*.)

He,

* The Women's Apartment.

He, *Doondy*, made no other Answer, but "We shall see Two Gurries hence whether I have or not." The Question was repeatedly put to him; and I told him, "If you will produce a Warrant, produce it, and you may take away *Jaggernaut*." He producing no Paper whatever, *Jaggernaut* continued to sit where he was. About Two Gurries afterwards, Five more Men came, making in all Seven, besides *Doondy*. I must observe that, during this Period, I took particular Pains to observe if I could see a Warrant concealed in either of their Hands, but I could not, and of this I now give my Oath; and knowing a Warrant, and understanding what it is, if necessary, I am ready to go and make Oath of this before Lord *Impey* at *Calcutta*: There was nothing in his Hand. A Warrant has a large Seal, and can hardly be contained in a closed Hand; but his Hand was not even closed well. These Five additional Men being arrived, *Doondy* said again to *Jaggernaut*, "Get up, get up;" and gave him much Abuse. One Man took him by the Neck, one by each Arm; they all laid hold of him, and dragged him to the Foot of the Staircase. I said nothing further at that Time, nor did *Syed Allee Cawn*. *Syed Allee Cawn* sat still; I arose, and walked towards the Top of the Steps. One of the Sepoys stationed with the *Phousdar* stopped them, and said, "You are carrying away the *Peshkar* of the *Phousdarry*, upon what? If you have any Warrant shew it; without a Warrant I cannot permit him to be taken away." *Doondy* abused the Sepoys, and spoke ill of the Gentlemen. The Sepoy, irritated, gave *Doondy* a Slap on the Face; then *Doondy* drew his Cuttar or Poniard from his Waist, and made a Blow at the Sepoy. The Sepoy caught the Poniard in his Hand, and it cut him; he wrenched it from *Doondy*. The rest of the Guard at the Gate seeing the Scuffle ran up: The Confusion encreased, and in the midst of it *Jaggernaut* ran away, and slipped through a Door at the Back of the Compound. I came down the Steps, and tried to put an End to the Dispute. I soothed *Doondy* and the Sepoy by Turns; begged them for God's sake to be quiet; repeatedly told *Doondy*, that if he would but shew his Warrant, I myself would bring *Jaggernaut*, and give him into his Charge.—He answered me only by Abuse, and produced no Warrant. It was not only I, but several People of Credit repeatedly desired him to produce his Warrant; but he would not.

Doondy then went, sat himself down at the Place where the Sepoys remain, and he sent one of his People to Mr. *Peat*, his Master, telling him, "Go and tell Mr. *Peat*, they have beat me, and rescued my *Astammy* from out of my Hands."

I returned to the open Hall, and sat down by *Syed Allee Cawn*. *Syed Allee Cawn* sent word repeatedly, (Six or Seven Times), by the Persons standing round him, to *Doondy*, desiring him to go away, not to make further Disturbance there; that *Jaggernaut* was gone to his own House. Go there, and make your Disturbance. However he did not stir, but replied by Abuse and Threats.

About

About Two Gurries after, it was reported a Croud was gathered and advancing to the House. *Syed Allee* directed them to shut the outer Door: the outer Door was shut. *Doondy* still remaining within, with One or Two of his People, as he refused to go away. The People who were without began endeavouring to force the Door, throwing Bricks against it; finding they could not break it, Five or Six scaled the Wall, and from thence threw Bricks into the Dewan Kannah, where we were all sitting.

I then desired *Syed Allee Cawn* to go away, and take with him all the young Men, who it was probable might be exasperated. I continued to sit in the Dewan Kannah with *Khodadaut Cawn*, *Shawjowand Allee*, and *Meer Mahomed Allee*, and *Hussain Cooly*, with some Servants and others.

Syed Allee and the others retired within; Soon after it was reported, "Mr. Peat is come, Mr. Peat is come." An extraordinary Effort was then made at the Door; it gave, broke, and fell in; Mr. Peat entered with a Mob of Hircarrahs, Peons, Slaves, Dandys, and all Kinds of Rabble, armed with Sticks, Spears, Swords, and other offensive Weapons, beating, striking, and knocking all the People as they rushed on. I had a *Syef* (or long Sword) in my Hand, which I gave into the Hand of one of my Slaves, and advanced single towards Mr. Peat, bowed to him, and taking him by the Hand, I desired him to walk in and sit down; that there was no Dispute with me, no Warrant upon me; that the Dispute was with *Jaggernaut*. Then Mr. Peat said, "Who are you?" I replied, "I am the Father of *Syed Allee Cawn*."—Then *Doondy* said, "Yes, this is *Moockurram Allee Cawn*, the Master of the House." Then Mr. Peat said, "Give me *Jaggernaut*." I replied, "Be pleased to walk in and sit down; I will send for *Jaggernaut*, and bring him before you." Upon this he looked in my Face, and appeared satisfied, and I thought he intended to come into the House with me, when I received a Stroke over my Head, but I did not see from what Hand, as the Stroke was given from behind me. Perceiving the Blood running down my Face, and being single in the midst of so many, I pushed on towards the House. Whilst I was running, I received Five or Six Strokes from Sticks and Bamboos, which brought me down upon my Hams before I reached the House. At that Instant my Son-in-law, *Meer Hussain Allee*, came running to my Assistance from a Side-door that leads to the *Zenana*; when the People who were beating and surrounding me, quitted me and seized him, hawling him towards Mr. Peat, who instantly fired a Pistol, the Ball of which hitting him in the Belly, Mr. Peat ran to his Palanquin, saying that "there was a Man killed," or some such Words, to the Bearers, and hurried away as fast as he could. His People, who had wrenched the Tulwar out of *Meer Hussain Allee's* Hand, gave him several Blows upon the Back and Shoulders with Sticks, and followed their Master.

Question. Are you perfectly certain that *Jaggernaut* made his Escape and ran off at the Time that the Dispute happened between *Doondy* and the Sepoys?

Answer. Yes, I am perfectly sure of it; there were many People scuffling together, and *Jaggernaut* slipt away. I saw him pass out at another Door.

Question. What Door do you mean?

Answer. I apprehended at the Time, and have since heard, that he went out at the back Door of the Compound. It is situated behind the House. I could not see him go out of the Door, but I saw him go off at one Side of the House which led to that Door.

Question. From the Time of *Jaggernaut's* going away in this Manner till the Arrival of Mr. *Peat*, did you see *Jaggernaut*?

Answer. No, I did not see him.

Question. Was he in the House, or any of the Houses near it, when Mr. *Peat* arrived?

Answer. Not that I know of. I heard and believe he was gone away. If he was concealed in any of the Buildings, it was without my Knowledge.

Question. Did you see *Jaggernaut* again in the Course of that Day?

Answer. No, not till Monday.

Question. Can you positively assert that *Jaggernaut* had no Concern in any Fray that happened after he made his Escape, during the Dispute between the Sepoys and *Doondy*?

Answer. Yes I can, and do repeat that, from the Time of his going away at the Time mentioned, he had no Concern in any Fray that happened afterwards.

Question. If he had been concerned in any of them, do you think you must necessarily have seen him?

Answer. Yes; I was either in the Dewan Kannah or Compound, from the first Commencement of the Dispute till the Conclusion of it.

Shanjowaud Allee, *Fahkeer*, being next required to give his Deposition, replies, That he is a Resident of another Country; he interferences not in the Quarrels of Men; he is a *Fahkeer*, and his Employment is to pray to God. —It is true, he has been wounded, but he bears no Ill-will or Malice to any one. God will reward as he shall think proper the Persons who inflicted an unmerited Punishment upon a harmless and defenceless Man, and all will doubtless have Justice; but he must decline giving Evidence in any Dispute between Man and Man.

(Signed) JOHN SHAKESPEAR, WILLIAM HOLLOND.

A true Extract from the Consultation, Sept. 29, 1777.

(Signed) H. LODGE, Secretary.

Extract of the Proceedings of the 29th of September, 1777.

SOME of the People present at the late Fray at the Phousdar's House now attending, the Board proceed to take their Evidence.

Mirza Calloo, being duly sworn, deposes: I went to *Syed Allee Cawn's* House to pay him a Visit on the Occasion of his Return from *Moorsbedabad*, on last Saturday Se'nnight.—Between Ten and Eleven o'Clock, I was sitting in his Dewan Cannah with *Syed Allee Cawn*, *Moockurram Allee Cawn*, and many others; *Jaggernaut* was also there. A little after the Time of Noon, *Doondy*, a Man whose Person I know, (he being the Nephew of *Sbookrolla's* Jemautdar) came there. *Jaggernaut* was sitting with his Face towards the South, when *Doondy* came and sat close to *Jaggernaut* and Face to Face, pushing him with his Hand closed, repeatedly told him to get up; there were two other Persons with *Doondy*, who continued standing. *Jaggernaut* said to *Doondy*, "If you have got any Warrant produce it; why do you affront and disgrace me?"

Question. Had *Doondy* said any Thing about a Warrant?

Answer. No; he had done nothing more than pushing him, telling him to get up.—He proceeds. "At the same Time, *Syed Allee Cawn* told *Doondy*, that *Jaggernaut* was the Dewan of the Phousdarry, and desired he would not affront him, but produce his Warrant, if he really had any; to this *Doondy* answered only, "It will appear two Ghurries hence." At this Time four or five other Persons came, and having seized *Jaggernaut*, conformably to Orders given them by *Doondy*, in abusive Language dragged him down the Steps into the Compound six or seven Yards from the Building. After that, a Scuffle ensued between the Havildar at the outer Gate and *Doondy*, on which *Jaggernaut* escaped, and the Havildar took *Doondy* to the Gate. What passed between them I do not know, nor where *Jaggernaut* went. I remained sitting in the Dewan Cannah. About Three Ghurries after that (I speak by Guess) it was cried out, that "People are coming, People are coming." Upon this the outward Gate was fastened. Bricks were thrown into the House from over the Wall, and there was a great Noise of beating and thumping against the Gate: Three or Four Men scaled the Wall, and began throwing Bricks from thence; but upon a Noise being made from the neighbouring Houses, they quitted the Wall. About One Ghurrie more there was a Cry of, "The Gentleman is coming, the Gentleman is coming:" The Door gave way, and then fell in; the Gentleman came in, attended by a great Number of People, some of whom were armed with Clubs, Sticks, &c.

The People of the House asked *Moockurram Allee Cawn* if they should go; when he forbid them, and went himself, saying, as I was standing close to his Side, "I will go and invite the Gentleman to sit down." So he went towards him unattended, and something passed between them, which, being at some Distance, I could not hear distinctly; but I think *Moockurram Allee Cawn* was saying to him, "Come, Sir," and taking him by the Hand, when *Doondy* wrenched a *Syef* (or long Sword) out of the Hands

of

of one of the Slaves of *Moockurram Allee Cawn*, who was standing Six or Seven Yards Distance from *Moockurram Allee Cawn*, and gave *Moockurram Allee Cawn* a Blow with it on the Head, from behind his Back. Having received the Blow, he endeavoured to get away; when *Meer Hossain*, his Son-in-law, who had remained at the Door of the *Zenana*, came running towards him, but was stopped in his Way by several People, who laid hold of him, and immediately afterwards I saw the Gentleman's Arm move, and heard the Report of a Pistol. He himself instantly went away: I remained at the House assisting *Moockurram Allee Cawn* and *Meer Hossain*, who had been wounded, and stayed there till the Doctor came. There were other Persons who received Wounds in the Fray, but I did not see how they happened.

Question. Did you see *Meer Hossain* come out from the side Door of the Compound?

Answer. Yes, I did.

Question. Had he any Arms in his Hands?

Answer. Yes, he had a Tulwar.

Question. Had he any Arms besides a Tulwar?

Answer. I did not perceive any Thing else; whether he had a Shield or not, I did not observe.

Question. Was his Tulwar drawn?

Answer. No, it was in the Scabbard.

Question. Was it at any Time drawn from the Time he came out till he received the Wound from the Pistol?

Answer. No, it was snatched out of his Hands.

Question. Did he attempt to draw it?

Answer. No; I did not see him attempt to draw it; he was stopped as he was running towards his Father-in-law, and while they were drawing him forwards he received the Wound.

Question. In what Manner did he carry the Sword?

Answer. He was carrying it in one Hand, as People usually carry a Sword; not uplifted, as in an Attitude of striking.

Question. Can you remember at what Distance he was from Mr. *Peat* when he received the Wound?

Answer. About Five or Seven Cuvids, or rather less than that.

Question. Did he, from what you saw, seem inclined to attack any particular Person, when he came out from the *Zenana*?

Answer. No, he did not seem to aim at any Person.

Question. When did you see *Jaggernaut* next after he made his Escape upon the Dispute happening between the Peons and the Sepoys?

Answer. I have not seen him ever since that Time.

Question. Had he any Thing to do in the latter Part of the Fray, when *Moockurram Allee Cawn* was wounded, and *Meer Allee* shot?

Answer. No, he was not there at that Time; he had gone off long before, and did not make his Appearance afterwards.

Question. If *Jaggernaut* had been there, do you imagine you must have seen him?

Answer. Most certainly I must have seen him.

A true Extract,

(Signed) HENRY LODGE, Secretary.

Agreed, Extract of the above be transmitted to the Honourable Governor General, and Council, with the following Address.

To the Honourable WARREN HASTINGS, Esq; Governor General, and Council of Revenue, Fort William.

HONOURABLE SIR, and GENTLEMEN,

We beg Leave to inclose you Three Depositions, taken agreeably to your Orders. The others will wait on you as speedily as possible.

Dacca, Sept. 29, 1777.

We are, &c.

Extract of the Proceedings of the Dacca Provincial Council, dated the 2d of October, 1777.

PROCEEDINGS of the 29th ultimo, read and approved.

The Chief lays before the Board the following Letter he received from Mr. Peat last Night, with his Answer.

SIR,

AS I understand from Captain Cowe, that the Sepoys are continued over me by your Directions; and as the Man whom I shot is neither dead or likely to die, there is no Cause for keeping me in Confinement. I therefore now apply to you for your Directions to take away the Sepoys from my House, that I may be at Liberty.

I presume it will be needless for me to inform you, that the putting any Restraint on my personal Liberty, without my Consent, while I reside here as an Officer of the Supreme Court, is a Contempt to that Court, besides a private Injury, for which I am intitled to have Redress.

I am, &c.

Dacca, Oct. 1, 1777.

(Signed) S. PEAT.

To Mr. PEAT.—SIR,

IN Reply to your Favour of this Day's Date, I am very sorry to acquaint you that the last Report I received from the Surgeon concerning the Situation of the Person who was shot by you, was unfavourable. I have directed both the Surgeons to attend me To-morrow Morning, when they will be publickly examined; and I shall be extremely happy if their Report may be such as to justify me, consistently with the Orders under which I act, in removing

removing the Sepoys from your House; if not, I shall refer it to Mr. Justice Chambers, who is now in Town, to act in the Matter as he may think proper.

I am, &c.

Dacca, Oct. 1, 1777.

(Signed) C. W. B. Rous.

At the same Time he informs them, that he wrote to the Surgeons to be very particular in their Examination of *Meer Hossain* this Morning, and give in a Report to the Council, by which they might judge how far it may be consistent with the Orders of the Honourable Governor General and Council to remove the Guards from Mr. *Peat's* House.

The Surgeons send in the following Report.

To CHARLES WILLIAM BOUGHTON ROUS, Esq; Chief, and Council of Revenue, at Dacca.

GENTLEMEN,

HAVING maturely considered the Case of *Meer Hossain Allee*, we cannot take upon ourselves to declare that he is out of all Danger from the Wound in his Abdomen; but from the favourable Symptoms that appear at present, we think we may venture to prognosticate a great Probability of his Recovery.

We are, &c.

Dacca,

Oct. 2, 1777.

(Signed) { PETER SMITH, Surgeon.
JOHN REED, Assistant Surgeon.

As there appears great Probability of the Recovery of *Meer Hossain*, the Board are of Opinion the Guards may with Propriety be removed from Mr. *Peat's* House. The Chief is requested to give the necessary Instruction to the commanding Officer.

The Depositions taken by the Chief and Mr. *Holland*, since the last Meeting of the Board, are now recorded as follows.

DEPOSITIONS taken on Wednesday, the 1st of October, 1777, before CHARLES WILLIAM BOUGHTON ROUS, Esq; Chief, and Mr. WILLIAM HOLLOND.

MEER Mabomud Tucky, an Inhabitant of the City, and in no Person's Employ, being sworn upon the *Koran*, agreeable to the Customs of his Religion, deposes to the following Effect:

On Saturday, the Day on which the Quarrel happened, I went to see *Syed Allee Cawn*, and was sitting with him about Two Ghurries before 12 o'Clock, and speaking to him, when on a Sudden I heard *Doondy* say to *Jaggernaut*, "Get up, get up." *Syed Allee Cawn* asked *Doondy* whether he had brought any Order or Warrant with him; he replied, "You will see Two Ghurries hence." Soon after *Doondy* turned about, and asked if his People were come; seeing that they were, he ordered them to seize *Jaggernaut*, which they did accordingly, and hauled him out of the Hall, down the Steps, into the Compound.

The

The Sentry at the Door asked *Doondy* why he was taking away *Jaggernaut*, and whether he had brought any Order to take him away; but he replied only by Abuse: A Quarrel then happened. *Jaggernaut* made his Escape in the Confusion, and *Doondy* went to the Guard Room. About Two Ghurries after I saw a Disturbance was likely to happen, as a Number of People were advancing to the Door. Upon this, those who were there shut it. The Croud without knocked against the Door, and some of them got upon the Wall, which is low, and began throwing Bricks. The Servants of *Syed Allee Cawn* then spoke to *Syed Allee Cawn*, saying, "These People are throwing Bricks, what are we to do?" *Syed Allee Cawn* ordered them to make no Resistance. *Syed Allee Cawn* at this Time left the Hall, and retired to his inner Apartments; and the Neighbours began to raise a great Cry against the People who were upon the Wall, who therefore quitted it: I then went from the House by a Door at the Back of it.

Question. Did you not see, in *Doondy's* Hand, some Warrant or Paper?

Answer. No, I did not.

Question. If he had produced any Warrant or Paper, must you necessarily have seen it?

Answer. I must certainly have seen it, if he had shewn any Paper, as I was sitting there the whole Time.

Question. When Mr. *Peat* arrived at *Syed Allee Cawn's* House, was you there?

Answer. No, I was not: I saw nothing of the Quarrel that happened when Mr. *Peat* was there.

Question. When the Dispute happened between *Doondy* and the Sentry, did you see *Jaggernaut* make his Escape?

Answer. No, I did not.

Question. Why do you suppose that *Jaggernaut* made his Escape at that Time?

Answer. Because when the Dispute was at an End, *Jaggernaut* was not to be found, and the People said he was gone away.

Mirza Jaffer, an Inhabitant of *Dacca*, and an Acquaintance of *Syed Allee Cawn*, being duly sworn upon the *Koran*, agreeable to the Customs of his Religion, deposes:

On the Day the Quarrel happened, I don't recollect what Day it was, I was sitting at the House of *Mirza Cauloo*, who was gone to the House of *Syed Allee Cawn*, there I heard that there was a Disturbance at *Syed Allee Cawn's* House, whereupon I immediately ran to my own House, put on my Clothes, and sent Word of this Circumstance to all *Syed Allee Cawn's* Friends. I then repaired to *Syed Allee Cawn's* House, which I entered by the back Door, as I could not get in by the front Door, there being a great Crowd there. I there saw *Moockurram Allee Cawn*, and others, sitting; I asked *Moockurram Allee Cawn* the Occasion of the Disturbance, who told me the Particulars. (Here the Witness relates the Circumstances in the same Manner

ner as described by *Moockurram Allee Cawn* himself.) *Syed Allee Cawn* was retired to the inner Apartment, to whom I went; and he also related to me the same Particulars as had been told me by *Moockurram Allee Cawn*. At this Time, a Man brought us News that a great Crowd of People was assembled at the Door, and was endeavouring to break it open: *Syed Allee Cawn* then requested all the young Men to remain within, desiring them not to make any Opposition, and observed that he had written to the Chief upon the Subject, and that they need not be afraid. Soon after, another Message was brought us, that the Gentleman was come; upon which, I asked *Syed Allee* what we should do if they should come to the *Zenana*. He directed us to shut the Door, and make no Dispute; and he also desired that the Arms should be taken from the Servants. I accordingly took them from them, and afterwards went into the Apartments where the Women were, who were in much Fear and Lamentation; and while I was endeavouring to sooth the Mother of *Syed Allee Cawn*, I heard an Explosion. At this Time, a Woman of the Apartment brought News that *Syed Allee Cawn's* Father, and his Brother-in-law, were wounded. I went out, and saw the Blood running down *Moockurram Allee Cawn's* Face; and when I asked him what was the Matter, he said, "Don't mind me; go and look after *Meer Hossain*, who has been shot by the Gentleman." At this Time the Gentleman was not present, and I heard had gone off in his Palanquin the Instant after he had fired his Pistol.

Beckab, a Servant to *Moockurram Allee Cawn*; being duly sworn upon the *Koran*, according to the Customs of his Religion, deposes:

Whilst the People were throwing Bricks from off the Wall, I came and stood by *Moockurram Allee Cawn* in the outer Hall, to prevent being struck by them; he retired to one Side of it; he also sent a Message to the People upon the Wall, by *Mussute Cawn* and *Augau Hussain*, to ask them if they were come for Business, or to make a Disturbance; and desired, if they were come upon Business, they would send One or Two People within, to talk amicably upon the Matter. A short Time after this, a Report was brought that the Gentleman was coming. *Moockurram Allee Cawn* then desired his Son to go in with his Friends, saying, that he being old and experienced, he would remain without to receive the Gentleman and talk to him. The Door being forced and thrown down, a Number of People rushed in with Sticks and Bamboos, beating every Person in their Way. *Moockurram Allee Cawn* said to *Khodadaud Cawn*, and those that had remained sitting with him, "This is very extraordinary: do you remain here; I will go and speak to the Gentleman." He gave his *Sief* (or long Sword) into my Hands, and told me to stand where I was. I remained standing at the Bottom of the Steps; he advanced forward to meet the Gentleman. Before *Moockurram Allee Cawn* had joined the Gentleman, the People who had entered with him came up to the House, and treated every Person they found with Violence. Three or Four People also attacked me, and having knocked me down, snatched

snatched the Sword out of my Hand; they then laid hold of *Khodadad Cawn*, and pulled him before the Gentleman, with whom *Moockurram Allee* was then in Conversation; and while he was remonstrating to him against such Treatment being used to a Friend, who had come to see him, they began to ill treat him likewise; and one of them, a tall young Man, whose Name I do not know, and who had snatched the Sword from me, struck *Moockurram Allee Cawn* with it a violent Blow upon the Head with both Hands. *Meer Hossain* at this Time, who was at the inner Door of the *Zenana*, came running up to his Father-in-law; and when he had come within a small Distance of him, the People began beating him also, and pushed him towards the Gentleman; when I saw *Moockurram Allee Cawn* bleeding, and without Assistance, I went up to him, and was supporting him to conduct him into the House. When we had got about Halfway, we heard an Explosion, upon which *Moockurram Allee Cawn* said to those who were about him, "They are taking *Meer Hossain* that Way, perhaps he may be hurt; go and see what has happened." The Gentleman went away immediately. — *Mirza Cauloo* took Care of *Meer Hossain* who was shot, and I attended *Moockurram Allee Cawn* into the House.

Question. What Kind of a Wound did *Moockurram Allee Cawn* receive?

Answer. It was about the Breadth of Four Fingers long, upon the Top of the Head.

Question. Had he a Turban on or a Cap?

Answer. When he was sitting in the House he had a Cap on; when he went to meet the Gentleman he put on a Turban.

Question. Did much Blood issue from the Wound?

Answer. Yes; the Gown he had on was much stained on both Sides, and my own Clothes were likewise stained in supporting him.

Question. When *Meer Hossain* came from the *Zenana*, had he any Thing in his Hand?

Answer. He had a Tulwar in his Left Hand.

Question. Had he a Target?

Answer. No.

Question. Was the Tulwar drawn, or was it in the Scabbard?

Answer. It was in the Scabbard in his Left Hand.

Question. When did he raise it?

Answer. I did not see him raise it.

Question. Did he at any Time draw it?

Answer. I did not see him draw it; he was surrounded by People when I was conducting *Moockurram Allee Cawn* to the House.

Question. Did you see the People attack *Meer Hossain*?

Answer. Yes.

Question. At that Time, in what Position was his Sword?

Answer. It was in his Left Hand.

Question. What Person attacked the Gentleman?

Answer.

Answer. I don't know that any Body attacked him; who would presume to do it?

Question. Have you not heard that any Body attacked him with a Sword?

Answer. No, I have not.

DEPOSITIONS taken at Dacca, the 30th of Sept. 1777, before CHARLES WILLIAM BOUGHTON ROUS, Esq; Chief, and Mr. WILLIAM HOLLOND.

KAUJA SHUMSUTDEEN, being duly sworn upon the *Koran*, conformably to the Customs of his Religion, deposes:

About Noon on the Day this Dispute happened, being *Saturday*, I was sitting at the House of *Ramjau Beg*, when I heard that there was a Disturbance at *Syed Allee Cawn's* House, and therefore went there myself, about One *Gurrie* afterwards. When I arrived, I saw *Syed Allee* sitting in the *Dewan Khannah*; he desired me to go and speak to *Doondy*, and dissuade him from making a Disturbance. *Doondy* was at that Time sitting at the Guard-house. I had no sooner spoke to him, than he began abusing both *Syed Allee* and his Father *Moockurram Allee Cawn*. I found it needless to talk to a Man who used such a Style, thinking it had the Air of Folly, and retired to the House. At this Time about Fifteen People came to the Door, but were prevented from entering by *Syed Allee Cawn's* People, who fasten'd it. For some Time they were beating at the Door, they broke a Part of it, but it did not fall; many also got upon the Wall, and threw Bricks into the House. About a *Gurrie* after this, News came that the Gentleman was arrived: immediately the Door was forced, and fell in; the People rushed in, striking and beating every Person in their Way. *Syed Allee Cawn* forbade his Servants making any Use of their Arms. I, with some others that were there, retired on one Side, and did not see the Particulars that happened afterwards. I only heard them.

Question. Did you, whilst you was at *Syed Allee Cawn's* House, see *Jaggernaut* there?

Answer. No, I did not see him.

Question. Did you see Mr. *Peat*, when he came into the Compound?

Answer. I saw the Crowd that came in, from the Place to which I retired; I did not see Mr. *Peat*.

Question. Did you hear, or do you know, where *Jaggernaut* was when you were at *Syed Allee Cawn's* House.

Answer. No; I neither heard nor know.

Question. When you arrived, what did you understand to be the Cause of this Disturbance?

Answer. I did inquire when I arrived what was the Cause, and what I learnt was this; that *Doondy* closing his Hand had struck *Jaggernaut* upon the Shoulder, and told him to get up and follow him; that *Syed Allee* had asked him for what Purpose he came, and whether he had any Warrant, but could get no Answer from him. I likewise asked several

veral others who were there, if they had seen a Warrant, or other Paper, and they all said that they had not. I heard also that the Sépoys prevented *Doondy* from carrying away *Jaggernaut*; what afterwards became of him I know not.

Anmeer Sing, a *Hindoo*, being duly sworn conformably to the Customs of his Cast, deposes:

Last *Saturday* Se'nnight about Noon, whilst I was bathing in my own House, which is near that of *Mirza Allee Nucky*, one of my Peons told me that there was a great Disturbance at *Syed Allee Cawn's* House; I therefore went thither, and saw *Doondy* sitting in the Guard-house with Two Peons. I told him that it was unfit in him, who was a creditable Man, to make any Disturbance; and he had better go away. He replied to me with Abuses. I found it needless to talk to a Man in that Temper, and therefore desisted, but still remained near the Door. Presently afterwards about Twenty Persons arrived with Sticks and Clubs, armed at the Points with Iron. I stood at the Door with my Arms spread out, desiring that they would not enter, and representing to them that it was not proper that such a Number of Men should go to the House to create a Disturbance. I begged, if they had any Thing to say to *Syed Allee Cawn*, that they would send one Man to him for that Purpose: but they disregarded me, and one Man hit me with a Stick over the Arm. I therefore shut the Door against them; they then began to attempt to force open the Door, by striking it with Sticks, and flinging Bricks at it. Not being able to effect this, they went round to a Wall on one Side, and having got upon it, they threw Bricks at *Syed Allee Cawn*, *Mooockurram Allee Cawn*, and every Body. I remonstrated against this Proceeding, but without Effect. I then went to *Syed Allee Cawn*, requesting that he would give us Orders how we should act. At that Time every Body desired *Syed Allee Cawn* to retire to the inner Apartments; which he accordingly did, and they desired me to quit the Door of the Compound, and to station myself at the Door of the *Zenana*, where I went, and I did not afterwards see any Part of the Fray.

Question. When you saw *Doondy*, did you expressly ask him upon what Business he was there?

Answer. No, I did not ask him particularly; I only told him that it was unworthy of him to make a Disturbance at that Place.

Question. Did he, or any of his People, tell you that they were come with a Warrant?

Answer. No, they did not.

Question. Did you see any Paper in the Hands of either of them?

Answer. No, I did not.

(There are Five more Depositions of Persons present accompanying the foregoing, and almost literally the same with them, for which Reason they are omitted here, to avoid Repetitions.)

The

The Board now record the following Letter from the Honourable Governor General and Council, received whilst they are sitting.

To Mr. CHARLES WILLIAM BOUGHTON ROUS, Chief, &c. Provincial Council of Revenue, at Dacca.

GENTLEMEN,

WE have received your Letter of the 22d instant, with the accompanying Extracts of your Proceedings.

We much commend the Prudence and Discretion which you have shewn in all your Proceedings respecting the late unfortunate Disturbances created by Mr. Peat at Dacca, and approve of your having become Bail for the Appearance of Jaggernaut Dewan. We observe, however, some Parts of the Phousdar's Declarations, entered on your Proceedings, which make us apprehend that he might still be induced to oppose the Officers of the Supreme Court on any similar Occasion: we think it necessary, therefore, to prevent any further Contests of this Kind, by desiring that you will recommend to the Officers of the Phousdarry, when any Writs or Warrants shall be issued against them in future, to comply or submit to them without Resistance, but to give immediate Intimation thereof to us, through the Channel of your Board, that we may direct the Company's Counsel to plead to the Jurisdiction of the Court, as it will be impossible, without such a Process, to ascertain whether they are Objects of its Jurisdiction or not. In all Cases where Suits shall improperly have been commenced against them, they may be assured of obtaining such Satisfaction or Damages as the Nature of the Cause will admit.

Fort William,

Sept. 29, 1777.

We are, &c.

(Signed) WARREN HASTINGS, &c.

Agreed, Copy of the several Depositions, together with Copy of Mr. Peat's Letter to the Chief, and his Answer, be transmitted to the Honourable Governor General and Council, with the following Address.

To the Honourable WARREN HASTINGS, Esq; Governor General, &c. Council of Revenue, at Fort William.

HONOURABLE SIR, and GENTLEMEN,

WE are duly honoured with your Commands of the 29th ultimo, and have made known to the Phousdar the Sentiments you are pleased to express on the Subject of yielding Obedience to Writs which may hereafter be issued from the Supreme Court against any of the Officers of his Department. He persists in declaring, that upon this Occasion no Warrant was shewn; and if there had, that the Disturbance would never have happened. Without having heard all the Evidence which may be brought by every Party, it is certain that no decisive Judgement can be formed; but we are at least justified in remarking, that from all the Depositions we have taken, in pursuance of your Orders, with a Minuteness of Enquiry which might lead to

an impartial Discovery of Truth, there arises not the smallest Ground of Belief, that any Writ of the Supreme Court was produced, much less that it was torn and treated with Contempt by *Jaggernaut*, or any other Servants of the Phouddarry.

How far this Inference is fairly drawn, you, Gentlemen, will judge from a Perusal of the Depositions themselves, all taken upon Oath. Those of *Moockurram Allee Cawn*, the Father, and *Meer Hossain*, Brother-in-law to the Phouddar, have already been sent you; those of *Khajab Shumsuldein*, *Amin-der Sing*, *Meer Sheer Allee*, *Momun Beg*, *Meer Mabomed Tucky*, *Mirza Jaffer*, *Bekab*, Servant of *Moockurram Allee Cawn*, *Massutab Khawn Colly-churn* Sepoy, and *Zoorabwar Sing* Sepoy, many of them Men of Character in the Place, who happened to be present at different Periods of the Fray, attend you with our present Address; we have likewise taken the necessary Measures for dispatching the Witnesses to *Calcutta*.

We herewith submit to your Perusal Copy of a Letter addressed, by Mr. *Peat*, to our Chief on the 1st instant at Night, with the Answer written to it. The Report delivered in by the Surgeon being such as afforded great Probability of *Meer Hossain's* Recovery from his Wounds, we consented to withdraw the Sepoys from Mr. *Peat's* House. Mr. Justice *Chambers* having arrived here in his Way from *Chattagong* to the Presidency, our Chief asked him, Whether he would be pleased to interfere in the Matter judicially? and expressed his Wishes that he would do so; but this he chose rather to decline, requesting only that the Surgeons might be examined by him upon Oath, in case the Council should not think themselves authorized by their Report to remove the Guards from Mr. *Peat's* House.

Dacca, Oct. 2, 1777.

We are, &c.

(Signed) C. W. B. Rous, &c.

Ordered, the Dewan make the necessary Preparations for several Witnesses to proceed to *Calcutta*.

Extract of the Proceedings of the Dacca Provincial Council, dated the 6th of October, 1777.

To Mr. CHARLES WILLIAM BOUGHTON ROUS, Chief, &c. Provincial Council of Revenue, at Dacca.

GENTLEMEN,

WE have received your Letters of the 18th, 23d, 25th, and 26th instant, with their Enclosures.

We direct you to recommend, in the most earnest Manner, to the Phouddar to enter upon his Office, and to exercise the Functions of it, as the Peace of the Country will be greatly endangered by the Suspension of the Powers of the Police; and the Consequences he apprehends may be obviated by a prudent

dent Conduct on his Part, and by a cautious Observance of the Advice which has been communicated to him.

Fort William,

We are, &c.

Sept. 30, 1777.

(Signed) WARREN HASTINGS, &c.

The Chief informs the Board, that, upon Receipt of the above Letter, he wrote the Purport of it to the Phouddar, and now lays a Translation of his Answer before the Board.

Translation of a Letter from Syed Allee Cawn, Provincial Phouddar of Dacca, to the Chief.

I HAVE received your Letter, mentioning your having, for the Inspection of the Gentlemen of the Council at Calcutta, transmitted a Translate of the Answer written by me to you, relative to the Murder of *Mahomed Fautier*, and other People, committed in *Purgunnah Turruph* by the Slaves, and that now an Answer is arrived, directing the Gentlemen here earnestly to exhort me to enter upon the Office entrusted to me, as a Suspension of the Execution of it may endanger the Peace and good Order of the Country. I have also received an Order from the Nabob to transact the Business of the Phouddarry: But in deciding the Cause of Two adverse Parties, it being impossible for both to affirm the Truth, I must in Justice decide in Favour of the Party which appears to have most Right; but then, when will the other be satisfied? He will cry out, that I have done Injustice; and in case he goes to complain in the Supreme Court, and brings up a Warrant against me, I must go and answer to it; and, until the Truth or Falseness of it shall be enquired into, the Person who is invested with the executive Powers of an Office must remain a Culprit; and in becoming a Culprit, he must appear to the Vulgar in many Respects to have lost his Dignity, Credit, and Authority, and his Order will never be depended on or attended to by any one. Supposing it is proved in Court, that a Complainant has preferred a false Complaint, he is punished, and made to defray all Charges attending it; but in the mean Time, the Person who has acted in the Function of his Office will be disgraced, and degraded in the Sight of Society. Among these *Bengalies*, many, through Malice and Envy, will destroy their own Substance to create Disputes and Quarrels, and many are so despicable that they neither fear or care for Blows or Confinement; but little Matters degrade and dishonour Men of Rank, and it is a Disgrace to them to be placed on a Footing of Equality with mean Men. In case the Gentlemen should think proper to examine the Business transacted by me, or by my Servants, whether it is just or unjust, let them call for the Decrees, and the Proofs exhibited by the Plaintiffs and Defendants, and inspect and investigate them; I cannot object to it. Men are liable to Errors: Even in a Court, Errors may happen from Neglect of Pleading, or Deficiency of Proof, and it may be corrected; but in case a Person acting in his Office is to be liable to a Warrant, it is a very difficult Situation, and it is a Cause of Levity to the Concerns of

of Government. It is possible, that in one Day ten People may prefer Complaints, which requiring the Person in Office to employ his whole Time in answering to them, how can he find Time to execute the Function of his Office, which is his proper Business? Since the Order of my Superior is not to be dispensed with, well,—I will discharge the Business in Cases where the Peace of the Country may require it; but until the Dispute relative to Warrants against Men in Office is settled, it will be very difficult to go through the Business with Satisfaction; and the Function of the Office cannot be discharged with Security, or Business well transacted; and till Men in Office are known by the common People to be firm in Office, what they say or write will not be attended to. I am in every Respect obedient to the Orders of my Superiors. I have represented the above Circumstance for the Prosperity and well conducting of the Business of Government; as to the Rest, it depends upon those who have the Power.

Under the Seal of SYED ALLEE CAWN.

A true Translate,

(Signed) WILLIAM CATOR, *Persian* Translator.

Agreed, Copy of it be transmitted to the Honourable Governor General, and Council of Revenue, with the following Address.

To the Honourable WARREN HASTINGS, Esquire, Governor General, and Council of Revenue, Fort William.

HONOURABLE SIR, and GENTLEMEN,

THE Purport of your Letter under Date the 30th *ultima*, having been communicated to the Phousdar, we have the Honour to enclose you a Translation of his Answer.

Dacca, OA. 6, 1777.

We are, &c.

Extract of the Proceedings of the Dacca Provincial Council, dated the 13th of October, 1777.

MIRZA Moshun, the Darogah of the Phousdarry Adawlut, sends in the following Representation and Report.

The Representation of MIRZA MOSHSUN, Darogah of the Phousdarry Adawlut, at Dacca.

I AM appointed from the Nizamut to the Court of Phousdarry at Dacca; and, agreeably to the Appointment and Order from the Nabob, which remains in my Hands, I conduct the Business of the Phousdarry Court. About four or five Months ago, there had been a Complaint in the Phousdarry Court, relative to a Dispute between Ford, Taylor, and the Head of the Women of the Town, by Name *Sbayum*, (a Report of which, attested by Witnesses on the

the Spot, together with the Depositions, are forthcoming.) and *Shaton* afore-
 said attended at *Calcutta* to complain; notwithstanding which, the said Tay-
 lor having through Falsehood represented that I summoned and confined him
 without Reason, has procured a Summons against me; whereas it is necessary
 that a Person in Office should go through the Business before him, and that he
 should, agreeably to his Appointment and Order, summon an Offender at
 the Complaint of the aggrieved, for an Example to Rioters. If in this
 Manner an Offender shall bring a Summons against me, Hundreds com-
 plaining in the *Phouddarry* for Redress for their Grievances, and who are all
 having their Matters enquired into and settled, by this Means finding at the
Sudder a Road to bring Summonses, Knaves will collusively apply at the
 Presence for Warrants or Summonses against me. How is it possible that I,
 who am appointed to correct Abuses and redress Wrongs, can give Answer
 to the Summonses and Warrants of all the Offenders? or from whence am
 I enabled to defray the Charges attending them? I am unacquainted with
English Courts. The Charges to *Calcutta*, in case I agreeably to the Sum-
 mons proceed there, are considerable; besides, the Business of the Court
 of *Phouddarry* is at a Stand; and if I refuse to go, I offend the Gentlemen
 of the Court. I pray that the Gentlemen of the Council do give me the
 necessary Advice in this Affair.

(Signed) MAHOMED MOSHSUN.

A true Translate,

(Signed) W.M. CATOR, *Persian* Translator.

The Summons served upon the *Darogah*, is as follows.

Fort William in *Bengal*. GEORGE the Third, by the Grace of God, of
Great Britain, France, and Ireland, King, Defender
 of the Faith, and so forth: To the Sheriff of *Cal-*
cutta, at *Fort William* in *Bengal*, greeting. We com-
 mand you, that you summon *Mirza, Moshen* *Phouddar*,
 now or late of *Dacca*, if he shall be found in the
 Province, Districts, or Countries of *Bengal, Babar,*
 and *Orissa*, or any of them, that he be and appear
 before our Justices of the Supreme Court of Judica-
 ture, at *Fort William* in *Bengal*, on Wednesday, the
 Twenty-second Day of *October* next, at *Fort William*
 aforesaid, to answer to *Francis Ford* in a Plea of As-
 sault and false Imprisonment; whereof the said *Fran-*
cis Ford hath filed his Complaint of Record in our said
 Court, and have there this Writ.—Witness Sir *Elijah*
Impey, Knight, at *Fort William* aforesaid, the Twelfth
 Day of *July*, in the Year of our Lord One thousand
 seven hundred and seventy-seven.

Pear and }
 Wroughton, } Attornies. }

(Signed)

RD. LITCHFELD, Prothonotary.

Agreed, Copies of the foregoing be transmitted to the Honourable Governor General, and Council of Revenue, with the following Address.

To the Honourable WARREN HASTINGS, Esq; Governor General, &c. Council of Revenue, Fort William.

HONOURABLE SIR, and GENTLEMEN,

You have already been informed by our Board of the Proceedings held in the Phousdarry Adawlut, in Consequence of a Complaint lodged in that Court by *Shawn Surdar*, against Mr. *Ford Taylor*, residing in *Dacca*.

We have now to acquaint you, that a Summons has been served upon the Darogah of the Phousdarry Adawlut, requiring him to appear and answer in the Supreme Court on the 22d instant, upon an Action of Assault and false Imprisonment. We have the Honour to enclose Copy of the Writ, accompanied by the Representation he has delivered in to our Board upon the Subject. The necessary Advice has been sent to the Company's Attorney, Mr. *Jarrett*, that he may enter an Appearance, and apply for your Instructions in defending the Suit.

Dacca, Oct. 13, 1777. We are, &c.

Extract of the Proceedings of the Dacca Provincial Council, dated the 20th of October, 1777.

READ another Letter from the Honourable Governor General, and Council of Revenue, with its Inclosures.

To Mr. C. WILLIAM BOUGHTON ROUS, Chief, &c. Provincial Council of Revenue, at Dacca.

GENTLEMEN,

We have received your Letters of the 27th, 29th of September, and 2d instant, with the Papers mentioned to accompany them.

We herewith inclose you Copies of the Opinions of our Counsel, on the Conduct of Mr. *Peat*, as an Attorney, and Sheriff's Bailiff, both for your own Information, and that you may communicate to the Phousdar such Parts of them as relate to him, and the other Persons who may have been Sufferers in the late Assault said to have been made upon his House.

We desire you will send down the Proofs and Evidences of Mr. *Peat's* having acted in the Capacities of Attorney and Sheriff's Officer, in such Instances as have come to your Knowledge.

We observe that you have taken Measures for dispatching the Witnesses of the late Fray to *Calcutta*: As our Orders to this Effect were grounded upon a Supposition that *Meer Hussein Allee* might die of the Wound which he had received, they will of Course be rendered unnecessary in case of his Recovery;

Recovery; and we direct that you suspend the Execution of them for that Reason; as in that Case it must rest with the wounded Man alone to take such Course as the Law of *England* directs, in order to obtain Redress for the Injury which he may have sustained.

Fort William,

We are, &c.

Oct. 14, 1777.

(Signed) WARREN HASTINGS, &c.

(COPY.)

Mr. NEWMAN's Opinion on Mr. PEAT's Case.

IT appears, by the Papers laid before me, that, in the very Cause which has occasioned the present Question on Mr. *Peat's* Conduct, he has exercised his Functions of Master Extraordinary, Attorney at Law, and Sheriff's Bailiff. In the first, he takes the Affidavit of the personal Wrong alleged to be committed; in the second, procures the Process to be issued on that Affidavit; and in the third, he effects the Arrest, in which he is stated to be guilty of great Excesses.

Upon which I am asked as to the Compatibility of the Appointments, and the Legality of his Conduct, and, if improper, as to the Mode of Redress.—The first is an Appointment under His Majesty's Charter, and may be compatibly exercised with the second, as it is usual in *England*; but the second and third (the Attorney and Sheriff's Officer) are not only incompatible, and against the Rules of Practice in all Courts, but in direct Violation of an Act of Parliament, made in the Reign of *Henry* the Fifth, declaring that a Sheriff's Officer shall not be an Attorney; consequently such Offices cannot be executed together. And, in order to shew the ill Consequences arising from its having been done, and to restrain the same in future, an Affidavit should be made by the Persons in *Calcutta* acquainted with the Transactions alluded to, and on that Affidavit the Court should be moved, that Mr. *Peat* should answer the Charges against him, or else an Attachment should be applied for in the first Instance. But as Mr. *Peat* is an Officer of the Court, the first is the most usual Way; and if in his Answer to the Affidavit he does not give ample Satisfaction, the Court will make such Order against him as they in their Judgement will think he deserves.

With respect to the Riot and Affray, any Party aggrieved may prefer his Indictment either against *Peat* himself, or against any of his Followers, or both; and the Counsel for the Prosecution, in case a criminal Prosecution should be commenced, will adapt the Indictment to the Circumstances of the particular Cases they are meant to apply to; and I ground this my Opinion solely upon the Facts as they stand represented upon such Papers as have been laid before me.

The injured Officers of the *Phoufdarry*, or any other Person at *Dacca*, affected by the illegal Measures pursued by Mr. *Peat*, or his Servants, may be relieved by Actions for Damages sustained, or by a criminal Prosecution for

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the Assaults and other Violences committed, in case they will apply for Redress to the Supreme Court, which may prevent a Repetition of the same Conduct in future.

O^r. 11, 1777.

(Signed) CHARLES NEWMAN.

A true Copy,

Fort William, O^r. 14, 1777.

(Signed) ROBERT JARRETT.

A true Copy,

(Signed) GEORGE HODGSON, Assistant Secretary.

Opinion of Mr. LAWRENCE.

I HAVE perused and considered the Papers laid before me; from whence it appears, that Mr. Peat acted as Attorney and Sheriff's Officer in the same Cause.

It appears also that he is a Master Extraordinary, or Commissioner for taking Affidavits.

With respect to the first Point, I am clearly of Opinion they are incompatible Employments, and that, in acting in the double Capacity of Attorney, and Sheriff's Officer, he has offended against Stat. 1 Henry V. cap. 4.

With respect to the second Point, it is common for Attornies in all the Courts in *England* to have Commissions to take Affidavits; and the Supreme Court knew Peat was an Attorney when they gave him such Commission.

I am of Opinion, that the Party aggrieved should state to the Court, by Affidavit, the Circumstances of his acting as Attorney and Sheriff's Officer in the same Cause, and move that Peat may answer the Matters contained in the Affidavit; and the Court, in case he does not acquit himself by his Answer upon Oath, will proceed to punish him according to his Demerits, by that summary Authority every Court has over its own Officers.

Fort William,
O^r. 10, 1777.

(Signed) WM. C. LAWRENCE.

A true Copy,

(Signed) ROBERT JARRETT.

A true Copy,

Fort William,
O^r. 14, 1777.

(Signed) GEORGE HODGSON, Assistant Secretary.

The acting Chief is requested to communicate to the Phousdar such Parts of the Counsel's Opinion as relate to him, and the other Persons who have been Sufferers in the late Assault made upon his House.

Upon the Third Paragraph the Board remark, that with their Letter of the 18th ultimo they transmitted several original Notes from Mr. Peat, wherein he signs himself "Attorney at Law." The acting Chief now lays before the Board an original Letter from Mr. Peat to Jaggernaut Dewan, signed also "Attorney at Law."

Ordered, the Secretary do select from the Proceedings all original Letters from Mr. Peat, signed by him as Deputy Sheriff, &c.

Agreed,

Agreed, they be now transmitted to the Honourable Governor General, and Council of Revenue, with the following Address.

To the Honourable WARREN HASTINGS, Esq; Governor General, &c. Council of Revenue, at Fort William.

HONOURABLE SIR, and GENTLEMEN,

WE have received your Orders of the 14th, accompanied with the Opinions of the Honourable Company's Counsel, and shall immediately make known to the Phousdar such Parts thereof as relate to him, and the other Sufferers in the late Fray.

With our Address of the 18th *ultimo*, we had the Honour to transmit several original Notes from Mr. Peat, signed "Attorney at Law;" and there now attends you, enclosed, an original Note from Mr. Peat to Jaggernaut Dewan, subscribed in the same Manner. This appears to be the first Step taken in the Suit in which the Warrant was subsequently issued for the Apprehension of the Dewan, and affords positive Proofs of his having acted as Attorney in that very Suit.

The Proofs of his having officiated as Sheriff's Deputy in the same Suit, will be found in the original Notes from Mr. Peat to the Chief and our Board, claiming Jaggernaut as his Prisoner, which accompanies this Letter. In Addition to these, we must beg Leave to refer to the Testimony of Mr. Rous and Mr. Hollond, and particularly to the latter, who attended Mr. Peat, and executed Bail to him, for Jaggernaut, as Sheriff's Deputy. These Gentlemen having quitted Dacca on the 16th instant, they will necessarily be on the Spot in a very few Days.

Should any further Proofs come to our Hands, they will be immediately transmitted. The Witnesses have been long since dispatched from hence, and must be in Calcutta ere any Messenger from hence could overtake them. We have however informed the Phousdar, that if the Sufferers in the late Fray are desirous of bringing the Matter to a publick Trial, it rests with them alone to take such Course as the Law directs for obtaining Redress.

Dacca, Oct. 20, 1777.

We have, &c.

P. S. With our Address of the 20th September, we had the Honour to send Mr. Peat's original Letter to Lieutenant Cowe, requesting Assistance for the Seizure of Jaggernaut, wherein Mr. Peat styles himself "Deputy Sheriff."

Extract of the Proceedings of the Dacca Provincial Council, dated the 27th of October, 1777.

READ the following Petition of *Bulram Roy*, and Copy of a Note from Mr. Peat, Attorney at Law.

The Arzee of BULRAM ROY.

HURRY KISSHEN MOODY, having preferred a Complaint to Mr. Peat on a Claim for a Debt on an old Bond of 26 or 25 Years standing, of my Father and Uncle, has brought a Feech (or Lawyer's Note) against me. I am a Zemindar, and not comprehending an Enquiry in English, pray an Investigation may be ordered in the Dewanny Cutcherry.

(Signed) BULRAM ROY, Zemindar.

A true Translate,

(Signed) WILLIAM CATOR, Persian Translator.

RAJAH BULRAM MONECK,

I AM instructed by Hurry Kissben Mahajaan, to demand of you the immediate Payment of A.R. 1,666 : 2 : 6, due on Nine Bengal Bonds. In case of Default of Payment, an Action will be commenced against you in the Supreme Court.

Oct. 23, 1777.

(Signed) S. PEAT, Attorney at Law.

Read the Petition of Arman Gauzee, Zemindar of the Ten Gundah Division of Homnabad.

The Petition of the Vakeel of ARMAN GAUZEE, Zemindar of Purgunnah Homnabad.

ALLIAR GAUZEE, Chowdrie of Purgunnah Homnabad, took before the Committee's Bundabust the Half Anna Division of the Zemindary of Armaan Gauzee in farm, for the Period of Seven Years. The Gentlemen of the Committee gave the whole Purgunnah in farm to Ruston Chund Tewarry, upon which the said Farmer took Possession of the whole Purgunnah, made a *Hustabood*, and collected the Revenue. Alliar Gauzee forcibly took from my Constituent a Bond, running at Interest as for Money borrowed, and has absconded; now having preferred a Complaint against my Constituent in the Supreme Court of Judicature, has caused a Lawyer's Note to be sent into the *Mofussil*: I therefore pray an Investigation. Should the Complainant's Demand be proved to be a just one, I will discharge it.

(Signed) SHIOCHUND DOSS.

A true Translate,

(Signed) WILLIAM CATOR, Persian Translator.

The Vakeel being called before the Board, and questioned how he knows that an Attorney's Letter is gone to his Principal in the *Mofussil*, produces a Letter from the Zemindar, informing him of the Circumstances, and ordering him to represent the same to the Council.

The Board now inform the Vakeel, that he may write to his Principal to reply to Mr. Peat's Note, that he is a Zemindar, and has never served either

either the *English* Company, or any *English* Gentleman, and that he does not consider himself liable to the Jurisdiction of the Supreme Court of Judicature.

Agreed, we address the Honourable Governor General and Council upon this Subject, as follows.

To the Honourable WARREN HASTINGS, Esq; Governor General, and Council, Fort William.

HONOURABLE SIR, and GENTLEMEN,

WE have now the Honour to inclose you a Translate of a Petition delivered to our Board by Rajah *Bulram Moneck*, one of the Zemindars of *Cudwab*, together with an original Note addressed to him by Mr. *Peat*, Attorney at Law.

With a View to the general Ease and Welfare of the Country, and to prevent the extreme Confusion which must naturally arise from allowing obsolete Claims to be revived, the Government wisely ordained that all Demands of more than Twelve Years standing should be dismissed, if brought before the established Courts of the Country. It is therefore unnecessary for us to point out to you, Gentlemen, how very pernicious the Consequences must be, if they are now made actionable in the Supreme Court of Judicature; and we shall content ourselves with repeating the Observation we made in a late Address to your honourable Board, that "If the Zemindars should be rendered liable to the Jurisdiction of the Supreme Court, we doubt not but Claims will be revived to an Amount exceeding One Year's Revenue, and might occasion a sudden Transfer of almost all the landed Property in Bengal; a Concussion too violent for any State to bear." We also inclose a Translate of a Petition this Day delivered to us by one of the Zemindars of *Homnabad*.

You have very lately been pleased in the strongest Terms to rest upon us the Responsibility of realizing the Settlement: we shall most certainly exert ourselves to the utmost. But how, Gentlemen, is it possible to answer your Expectations, if these Attorney's Notes continue to be dispersed throughout the Country, and (as it has been the Case in some Instances) Warrants from the Judges of the Court immediately follow the Refusal of the Zemindar to render Satisfaction upon the Attorney's Notes?

We had the Honour to address you very fully on this Subject on the 18th of September.

We are, with Respect, &c.

Extract of the Proceedings of the Dacca Provincial Council, dated the 11th of November, 1777.

THE Zemindars of *Jugdiab* appear before the Board, and deliver in Copy of a Writ that has been served upon them by a Peon of Mr. *Peat*.

Fort William, in Bengal. } **GEORGE** the Third, by the Grace of God, of Great Britain, France, and Ireland, King, Defender of the Faith, and so forth. To the Sheriff of *Calcutta*, at *Fort William in Bengal*, greeting. We command you, that you summon *Deepportob Kirtree, Suttermonnes, Rajebullove Dofs, Sheron Pertob, Cauntomoney Roy*, now or late of *Dacca*, if they shall be found in the Provinces, Districts, or Countries of *Bengal, Babar, and Orissa*, or any of them, that they be and appear before our Justices of the Supreme Court of Judicature at *Fort William in Bengal*, on *Thursday* the 18th Day of *November* next, at *Fort William* aforesaid, to answer to *Challab Sing* in a Plea of Trespas on the Case, whereof the said *Challab Sing* hath filed his Complaint of Record in our said Court, and have there then this Writ. Witness Sir *Elijah Impey* Knight, at *Fort William* aforesaid, the 12th Day of *July*, in the Year of our Lord Christ One thousand seven hundred and seventy-seven.

A. FRASER, Sealer. } *Peat and Wroughton* } Attornies. } (Signed) R. LITCHFIELD, Prothonotary.
A true Copy. }
H. WODSWORTH, Sheriff.

Oct. 14, 1777.

Question. Who are *Deepportob Kirtree, Suttermonnes, Rajebullove Dofs, Sheron Pertob, Cauntomoney Roy*?

Answer. The present Zemindars of the Purgunnah are named *Kiritnarrain, Chaitanarrain, Ram Cant, and Ram Mobun*.

The Zemindars are told, that they must write to an Attorney to plead for them to the Jurisdiction of the Court.

Agreed, that Copy of the Writ be transmitted to the Honourable Governor General and Council.

Read the following Petition of the Vakeel of *Hommadunessa Khânnum*.

The Arzee of Hommadunessa Khânnum, Talookdar of Mouzah Dhoisharrah, Inhabitant of the City of Dacca.

MY Gomastah, at the Time of the *Dhaserrah*, went home, on which *Ram Poddar*, having on *Saturday* the 18th of *Kautick*, brought a Warrant and Peon against me, were entering the House, when my People, and others who were Men of Credit, said, "What is the Occasion of your going within-side? her Gomastah's having come will give Answer." They not listening, the Poddar with the Peon peremptorily entered the House, gave every Kind of

of Abuse, opened the Door, touched my Body with the Warrant, and having thrown down a Summons, peremptorily took a Receipt from me. Whether the said Poddar was employed by my Gomastah in exchanging or weighing the Revenue of my Talook or not, I know not, or whether there is a Balance or not. I pay a Revenue to the Company, am a Widow, and have been oppressed.

(Signed) HOMMADUNESSA KHANNUM.

A true Translate,

(Signed) WILLIAM CATOR, *Persian* Translator.

Agreed, it be transmitted to the Honourable Governor General and Council, and that we write to them as follows.

To the Honourable WARREN HASTINGS, Esquire, Governor General,
and Council, Fort William.

HONOURABLE SIR, and GENTLEMEN,

WE beg Leave to inform you, that a Summons has been served upon the Zemindars of the *Jugdiab* by the Name of *Deeppartab Kirtree, Suttermonnes, Rajebullove Doss, Sberon Pertob, Cauntomoney Roy*, at the Suit of *Cballab Sing*, for a Trespas upon the Case. Copy of the Writ goes inclosed.

We cannot fix these Names upon any particular Person, but believe it to be a Compound of several, forming the General Zemindarry Signature. It is superfluous for us to remark the Confusion to be apprehended from Precepts issued in so vague a Manner out of the Sheriff's Office. We have advised the Zemindars to plead to the Jurisdiction. We also beg Leave to enclose you Translate of a Petition delivered to us by the Vakeel of *Hommadunessa Khannum*, the Relict of a once creditable, though now decayed *Mabometan* Family. It merely relates the Fact of a Peon going into the House where there were only Women, and serving the Summons. We do not find that any Steps were taken contrary to what the Law of *England* might authorise; but this Invasion of the Precincts of a *Zemana* has spread universal Terror and Alarm throughout the City, and is so shocking to the Prejudices and established Customs of the Natives, that we conceive no Exertion of Power whatever could tend more effectually to alienate the Regard of the People from the *English*, than an Infringement of those Rights which have hitherto ever been held most sacred; as such, we think it a Circumstance sufficiently important to be communicated to your Honourable Board.

By a Mistake, the Vakeel carried away the Writ or Summons ere a Copy could be taken; and he has sent it to *Calcutta* to an Attorney, that an Appearance may be entered on Behalf of his Mistress. This Writ or Summons was also vague, for it stiled *Hommadunessa Khannum* (though a Woman) "*bim and be*." Copy thereof, if requisite, we apprehend may be had from the Sheriff's Office.

We have the Honour to be, with Respect,

HONOURABLE SIR, and GENTLEMEN,

Your most obedient humble Servants.

Dacca,

Nov. 11, 1777.

Extract of the Proceedings of the Dacca Provincial Council, dated the 14th of November, 1777.

PROCEEDINGS of the 13th instant read and approved. The Board now record the Three following Attorney's Notes.

No. I.

ANUNDERAM DELOLL,

I AM requested by *Joyarrain Roy Chowdry*, and *Roodnarrain Chowdry*, to demand of you the Payment of A. R. 1,100, due from you to them for Rent for Five Years for *Duwer Churr*. In case you do not pay it therefore, an Action will be commenced against you in the Supreme Court.

Nov. 10, 1777.

(Signed) S. PEAT, Attorney at Law.

No. II.

MOHUNANA PETUM,

I AM requested by *Baugman Takoor* to inform you, that unless you pay him his Share of Money, which by your Agreement belongs to him, he will bring an Action against you in the Supreme Court.

Nov. 6, 1777.

(Signed) S. PEAT, Attorney at Law.

No. III.

RAM CAUNTOO Chowdry, BISHNORAM Chowdry, and CHUTTERNAR-RAIN Chowdry,

I AM requested by *Syed Peer Mahomed* to demand of you the immediate Payment of A. R. 20,430, Ten Annas, and Fourteen Ghundas, being the Principal and Interest due on your *Bengal Bond*; and in case of Default of Payment, I now inform you that an Action will be commenced against you in the Supreme Court.

Nov. 10, 1777.

(Signed) S. PEAT, Attorney at Law.

Agreed, the Original be transmitted the Honourable Governor General and Council, with the following Address.

To the Honourable WARREN HASTINGS, Esquire, Governor General, and Council, Fort William.

HONOURABLE SIR, and GENTLEMEN,

WE beg Leave to enclose you Three Notes from Mr. Peat, Attorney at Law.

One (No. I.) directed to *Anunderam Deloll*. We must observe, that it was only on the 4th instant that Decree passed our Board awarding the Churr to *Anunderam*. So, Gentlemen, you will see that no sooner has a Person been cast in the established Courts of the Country, than he flies to Mr. Peat for Assistance to enable him to elude giving Satisfaction to the Decree. How then is it to be expected your Provincial Council can execute the

the Trust reposed in them, or that any Persons aggrieved will apply to them for Redress, when the immediate Consequence of their obtaining a favourable Decision upon their Claim, is a Lawyer's Note threatening them with a fresh Prosecution? *Jonarrain Roy Chowdry*, and *Roop Narrain Roy Chowdry*, are Zemindars of the *Purgunnah Muchuacaul*; and we are sorry to say, that there are but too many Instances of Zemindars themselves who give Encouragement to and promote this Litigiousness by their own Example.

On No. II. we have nothing to remark but the Vagueness of the Demand.

No. III. You will observe is expressly directed to Three Chowdries, who Mr. Peat must, or at least ought to have known, are no ways liable to the Jurisdiction of the Supreme Court.

These are but a small Part of the numerous Demands circulated by Mr. Peat throughout the City and District, to the great Annoyance of the People, and Prejudice of the Revenue.

We learn from common Report, that, in many Instances, the Notes have had their full Effect, and Persons have paid the Demands expressed in them, however exorbitant or unjust, rather than lay themselves open to the threatened Prosecution: for, unacquainted with the Justice, Mildness, and Impartiality of the *English* Laws, when the Matter in Dispute is brought to a regular Hearing and Trial, they judge only from the immediate Effects that a Warrant has upon their Persons; and notwithstanding the fullest Explanation to them that they have only to give Answer in the Suit, and have no Cause for Apprehension, the Consternation is such, that there are very few who have Resolution to wait the Issue of a regular Discussion before the Judges; but rather prefer complying with the Demand, however extraordinary: and the inevitable Consequence must be, a Failure of the Government's Revenue; for what Zemindar will not prefer appropriating his Kists, when it arrives from the *Mofussil*, to save himself from being seized upon a Warrant, instead of paying it in on account of his Rents? In Addition to the above, we must advise you, we have credible Informations that *Neaz Allee*, the Proprietor of the Talook of that Name, is now lying in Confinement in Mr. Peat's Godown; and from this Circumstance rendered unable to pay in One Rupee of the Kist of *Caulick* and *Assin*, which amounts to 1,573 *Sicca* Rupees; at whose Suit, or on what Account, we are yet uninformed.

We have the Honour to be, with Respect, &c.

Extract of the Proceedings of the Dacca Provincial Council, dated the 25th of November, 1777.

MIRZA ASSUD ULLAH, the Zemindar of *Gungamondel*, informs the Board, that he has been served with an Attorney's Note by Mr. Peat, which he now lays before the Board.

ASSAUDOOLAH,

I AM requested by *Mooty Ram Nundee* to demand of you the Payment of *Arcot* Rupees 9,126: 2, due from you as Administrator and Representative of *John Nuffau Kaumun* deceased, on his Bond, and Balance of Account. In case of Nonpayment, I am requested to proceed and recover the same in the Supreme Court.

Dacca,

Nov. 20, 1777.

Yours, &c.

(Signed) S. PEAT, Attorney at Law.

The acting Chief informs the Board, that *Mirza Allee*, the Zemindar of *Bauldakaul*, was with him this Morning to advise him he had been threatened by Mr. Peat's Sircar with Warrants for the Two Sums already demanded of him by *Mooteram* through Mr. Peat.—That he begged to be informed how he should act; for although he was a Zemindar, and therefore not amenable to the Supreme Court, yet that he was apprehensive Warrants might come, and in that Case he should be obliged either to produce Securities for his Appearance in Double the Amount of the Demand, (or 160,000 Rupees), a Thing it was impossible for him to do, or otherwise to be dragged down to *Calcutta* with Ignominy, and perhaps put into Jail. That he has never yet been in *Calcutta*, and being totally uninformed of the Customs of the *English* Law, he is greatly apprehensive of suffering a Disgrace hitherto unknown to him or his Forefathers. He therefore begs the Interposition of the Board, as far as may lay in their Power, to prevent the Warrants being issued against him.

Agreed, Extract of the above be forwarded to the Honourable Governor General and Council, with the following Address.

To the Honourable WARREN HASTINGS, Esquire, Governor General, &c.
Council,—Fort William.

HONOURABLE SIR, and GENTLEMEN,

WE beg Leave to inclose you an Extract of our Proceedings of this Day, in respect to a Demand for an old Zemindarry Debt made through Mr. Peat, upon *Mirza Assud Ullah*, the Zemindar of *Gungamandul*; also setting forth the Apprehension of the Zemindar of *Buldakaul*, of a Warrant said to be coming against him from the Supreme Court of Judicature. We have only to remark, that *Mooteram Nundee*, who makes this Claim, is the Person mentioned, in our Proceedings and Letters of the 1st instant, to have stopped Part of the *Buldakaul* Revenue in Payment of his private Debts; and this is the Mode he takes to revenge himself against the Zemindars.

We have already expatiated so fully upon the ill Consequences to be apprehended from these Demands being made, through the Attornies of the Supreme Court, upon the Zemindars, that it is needless to trouble you with a Repetition upon every Instance; but we cannot help expressing our Wish, that the Disgrace which must attend the Seizure of *Mirza Allee's* Person by Warrant,

Warrant, may by some Means be averted. He and *Mirza Affad Ullah* hold the two principal Zemindarries in *Dacca*. Any severe Measures which operate in disgracing these Persons, will spread a general Terror throughout the District, and cannot fail to be attended with Consequences seriously detrimental to the Revenue.

We have the Honour to be, with Respect,

Dacca,

Honourable Sir, and Gentlemen,

Nov. 25, 1777.

Your most obedient humble Servants.

Extract of the Proceedings of the Dacca Provincial Council, dated the 27th of November, 1777.

READ the following Petition of *Bissinchund*.

The Arzee of BISSINCHUND Tewarry.

OF the Talook of *Decaunt Khawn* and *Rabmut Khawn*, written in the Name of *Chowal Khawn*, they of their own free Will having sold an 8 *Anna* Proportion to me, gave me a Bill of Sale; and having formed a Division of the Proportion purchased, delivered it to me; agreeable to which, I having Possession, discharged the Government's Revenue. Under this Circumstance, *Khawn* aforesaid has, without Ground, preferred a Complaint against me in the Dewannee Adawlut, and obtained a Summons and Peon. I am here present, and there has been no Inquiry made. Now he has again preferred a Complaint to Mr. *Peat*, and caused a Chit against me. I therefore pray that you, Gentlemen, who are the Rulers of the Country, will (this being a Matter relative to the Country) station Peons over the abovenamed, order it to be enquired into, and settled at the Presence.

(Signed) BISSINCHUND, Tewarry.

A true Translate,

(Signed) WILLIAM CATOR, *Persian* Translator.

BISSECHUND TEWARRY,

I AM requested by *Radanaut Khawn* to inform you, that unless you restore to him the Possession of his Talook, called *Soorail Khawn*, which you have forcibly turned him out from, an Action will be commenced against you in the Supreme Court.

Nov. 24, 1777.

(Signed) S. PEAT, Attorney at Law.

Agreed, Copy of the Two foregoing Petitions, and Mr. *Peat's* original Notes, be transmitted to the Honourable Governor General and Council, with the following Address.

To

To the Honourable WARREN HASTINGS, Esq; Governor General, &c. Council,
Fort William.

HONOURABLE SIR, and GENTLEMEN,

WE are now necessitated to trouble you with Two Petitions recorded upon our Consultations of this Day, with Two Attorney's Notes from Mr. Peat.

One Man has complained to Mr. Peat because he has lost his Cause in the Dewanny Adawlut, the other for a Talook already in Suit in the same Court. Thus, Gentlemen, is our Time engrossed, and every Department of Government invaded; nor can we hope for Relief while Mr. Peat receives Seven Rupees upon every Note of this Kind he writes.

The Natives will no longer continue to prosecute their just Claims in the Country Courts, if they are thus harrassed upon obtaining a Decree in their Favour; and such Interference must in the End be fatal to the Revenue.

We have the Honour to be, with Respect,

Dacca,

Nov. 27, 1777.



Honourable Sir, and Gentlemen,

Your most obedient humble Servants.

Extract of the Proceedings of the Dacca Provincial Council, dated the 2d of December, 1777.

THE Vakeel of the Cudwab Zemindars now informs the Board, that he has received another Attorney's Note from Mr. Peat, being a Claim for an old Zemindarry Debt.

RAJAH BULRAM MONICK,

I AM requested by Bulram Doss and Takoor Doss to demand of you the Payment of A. R. 3,405, due on your Interest Bond. In case of Non-payment of which Sum, an Action will be commenced against you in the Supreme Court.

Nov. 25, 1777.

(Signed) S. PEAT, Attorney at Law.

Agreed, the Original be transmitted to the Honourable Governor General and Council, with the following Letter.

To the Honourable WARREN HASTINGS, Esq; Governor General, &c. Council,
Fort William.

HONOURABLE SIR, and GENTLEMEN,

WE beg Leave to inclose you another original Note from Mr. Peat to the Zemindar of Cudwab, being a Claim of an old Zemindarry Debt.

Dacca,

Dec. 2, 1777.

We have the Honour to be, with Respect, &c.

F I N I S.

